



**Iowa General Assembly**  
**Daily Bills, Amendments and Study Bills**  
**January 25, 2012**

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**House File 2094 - Introduced**

HOUSE FILE 2094

BY KOESTER

(COMPANION TO SSB 3002)

**A BILL FOR**

1 An Act relating to mandatory reporting of school employee  
2 misconduct to the board of educational examiners.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TL5B 5329YH (1) 84  
je/nh



Iowa General Assembly  
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H.F. 2094

1 Section 1. Section 272.15, subsection 1, paragraphs a and c,  
2 Code Supplement 2011, are amended to read as follows:

3 a. (1) The board of directors of a school district or  
4 area education agency, an administrator of a school district,  
5 the chief administrator of an area education agency, and  
6 the authorities in charge of an accredited nonpublic school  
7 shall report to the board any instance of disciplinary action  
8 taken against a licensed school employee by the board of  
9 directors of the school district or area education agency, the  
10 administrator of the school district, the chief administrator  
11 of the area education agency, or the authorities in charge of  
12 the accredited nonpublic school.

13 (2) The board of directors of a school district or area  
14 education agency, ~~the superintendent~~ an administrator of  
15 a school district or, the chief administrator of an area  
16 education agency, and the authorities in charge of a an  
17 accredited nonpublic school shall report to the board the  
18 nonrenewal or termination, for reasons of alleged or actual  
19 misconduct, of a person's contract executed under sections  
20 279.12, 279.13, 279.15 through 279.21, 279.23, and 279.24, and  
21 the resignation of a person who holds a license, certificate,  
22 or authorization issued by the board as a result of or  
23 following an incident or allegation of misconduct that, if  
24 proven, would constitute a violation of the rules standards  
25 of professional conduct and ethics adopted by the board  
26 to implement section 272.2, subsection 14, paragraph "b",  
27 subparagraph (1) in 282 IAC 25, when the board or reporting  
28 official has a good faith belief that the incident occurred  
29 or the allegation is true. The board may deny a license or  
30 revoke the license of an administrator if the board finds by  
31 a preponderance of the evidence that the administrator failed  
32 to report the termination or resignation of a school employee  
33 holding a license, certificate, statement of professional  
34 recognition, or coaching authorization, for reasons of alleged  
35 or actual misconduct, as defined by this section.

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je/nh

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H.F. 2094

1       c. For purposes of this section, unless the context  
2 otherwise requires, "*misconduct*" means an action disqualifying  
3 an applicant for a license or causing the license of a person  
4 to be revoked or suspended in accordance with the ~~rules~~  
5 standards of professional conduct and ethics adopted by the  
6 board to ~~implement section 272.2, subsection 14, paragraph "b",~~  
7 ~~subparagraph (1) in 282 IAC 25.~~

8     Sec. 2. Section 272.15, subsection 2, Code Supplement 2011,  
9 is amended to read as follows:

10       2. If, in the course of performing official duties, an  
11 employee of the department becomes aware of any alleged  
12 misconduct by an individual licensed under this chapter, the  
13 employee shall report the alleged misconduct to the board  
14 of educational examiners under rules adopted pursuant to  
15 ~~subsection 1~~ by the board.

16 EXPLANATION

17 This bill requires the board of directors of a school  
18 district or area education agency, an administrator of a school  
19 district, the chief administrator of an area education agency,  
20 and the authorities in charge of an accredited nonpublic school  
21 to report any instance of disciplinary action taken against a  
22 licensed school employee to the board of educational examiners.

23 The bill also modifies the definition of misconduct for the  
24 purposes of mandatory reporting of school employee misconduct  
25 to the board of educational examiners to cite directly to the  
26 standards of professional conduct and ethics set out in the  
27 board's rules.



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House File 2095 - Introduced

HOUSE FILE 2095

BY BYRNES, J. TAYLOR, MASCHER,  
HALL, and WINCKLER

A BILL FOR

1 An Act eliminating the grants for students attending for-profit  
2 accredited private institutions under the tuition grant  
3 program affecting the eligibility of such institutions  
4 to participate in other student and teacher assistance  
5 programs.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5675YH (4) 84  
kh/rj



Iowa General Assembly  
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H.F. 2095

1 Section 1. Section 261.9, subsection 1, paragraph b, Code  
2 Supplement 2011, is amended to read as follows:  
3 b. Is accredited by the north central association of  
4 colleges and secondary schools accrediting agency based on  
5 their requirements, is exempt from taxation under section  
6 501(c)(3) of the Internal Revenue Code, and annually provides a  
7 matching aggregate amount of institutional financial aid equal  
8 to at least seventy-five percent of the amount received in a  
9 fiscal year by the institution's students for Iowa tuition  
10 grant assistance under this chapter. Commencing with the  
11 fiscal year beginning July 1, 2006, the matching aggregate  
12 amount of institutional financial aid shall increase by the  
13 percentage of increase each fiscal year of funds appropriated  
14 for Iowa tuition grants under section 261.25, subsection 1, to  
15 a maximum match of one hundred percent. The institution shall  
16 file annual reports with the commission prior to receipt of  
17 tuition grant moneys under this chapter. ~~An institution whose~~  
18 ~~income is not exempt from taxation under section 501(c) of~~  
19 ~~the Internal Revenue Code and whose students were eligible to~~  
20 ~~receive Iowa tuition grant money in the fiscal year beginning~~  
21 ~~July 1, 2003, shall meet the match requirements of this~~  
22 ~~paragraph no later than June 30, 2005.~~  
23 Sec. 2. Section 261.25, subsections 2 and 5, Code Supplement  
24 2011, are amended by striking the subsections.

25 EXPLANATION

26 This bill eliminates the standing appropriation of \$4  
27 million from the general fund of the state for tuition  
28 grants for students attending for-profit accredited private  
29 postsecondary institutions, and eliminates, from a provision  
30 that defines "accredited private institution" for purposes of  
31 the tuition grant program, a requirement that a for-profit  
32 accredited private institution meet the tuition grant match  
33 requirements applicable to nonprofit institutions.  
34 The definition of "accredited private institution", which  
35 under the bill no longer includes for-profit accredited

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kh/rj

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H.F. 2095

1 private institutions, is also used for purposes of the  
2 rules and procedures adopted by the state board of education  
3 or the college student aid commission for the approval of  
4 para-educator preparation programs offered by postsecondary  
5 institutions, waivers to grant temporary relief from state  
6 student assistance programs requirements in response to a  
7 national emergency, textbook notice requirements, chiropractic  
8 forgivable loans, the work-study program, the national guard  
9 educational assistance program, minority academic grants for  
10 academic success, the teacher shortage forgivable loan program,  
11 and the senior year plus program.



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House File 2096 - Introduced

HOUSE FILE 2096

BY GARRETT

(COMPANION TO SSB 3053)

A BILL FOR

1 An Act relating to the supervision of physician assistants.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5464YH (1) 84  
jr/sc





Iowa General Assembly  
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H.F. 2096

1 Section 1. Section 148C.3, subsection 2, Code 2011, is  
2 amended to read as follows:  
3 2. Rules shall be adopted by the board pursuant to this  
4 chapter requiring a licensed physician assistant to be  
5 supervised by physicians. The rules shall provide that not  
6 more than ~~two~~ five physician assistants shall be supervised by  
7 a physician at one time. The rules shall also provide that  
8 a physician assistant shall notify the board of the identity  
9 of the physician assistant's supervising physician and of any  
10 change in the status of the supervisory relationship.

11 EXPLANATION

12 Under current law, a physician assistant must work under  
13 the supervision of a licensed physician, and a licensed  
14 physician is allowed to supervise no more than two physician  
15 assistants at one time. This bill allows a licensed physician  
16 to supervise up to five physician assistants at one time.

LSB 5464YH (1) 84

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jr/sc

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House File 2097 - Introduced

HOUSE FILE 2097  
BY WOLFE

A BILL FOR

1 An Act relating to using identifying numbers assigned to  
2 jurors.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5617HH (2) 84  
jm/nh



Iowa General Assembly  
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H.F. 2097

1 Section 1. Section 607A.47, Code 2011, is amended to read  
2 as follows:

3 **607A.47 Juror questionnaire — confidentiality.**

4 1. The court may, on its own motion, or upon the motion of  
5 a party to the case or upon the request of a juror, order the  
6 sealing or partial sealing of a completed juror questionnaire,  
7 if the court finds that it is necessary to protect the safety  
8 or privacy of a juror or a family member of a juror.

9 2. An attorney, judicial officer, or other court personnel,  
10 during voir dire and trial, shall refer to a juror or  
11 prospective juror by the identifying number assigned to the  
12 juror instead of the name of the juror or prospective juror.

13 EXPLANATION

14 This bill relates to using an identifying number assigned to  
15 a juror.

16 Under the bill, an attorney, judge, or other court  
17 personnel, during voir dire and trial, shall refer to a juror  
18 or prospective juror by the identifying number assigned to the  
19 juror instead of the name of the juror or prospective juror.



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**House File 2098 - Introduced**

HOUSE FILE 2098  
BY ISENHART and HAGER

**A BILL FOR**

1 An Act authorizing local authorities to permit parking on the  
2 left side of a roadway during periods of winter weather.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5688HH (2) 84  
dea/nh



Iowa General Assembly  
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H.F. 2098

1 Section 1. Section 321.361, Code 2011, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 1A. Local authorities may by ordinance  
4 permit vehicles stopped or parked upon a roadway where there  
5 are adjacent curbs to be stopped or parked with the left-hand  
6 wheels of the vehicle adjacent to and within eighteen inches of  
7 the left-hand curb, if deemed safer than stopping or parking  
8 as provided in subsection 1 during periods of snow, sleet,  
9 or freezing rain or when snow or ice has accumulated on the  
10 roadway. However, an ordinance adopted under this subsection  
11 shall not apply to a road which is a primary road extension.

12 EXPLANATION

13 This bill relates to parking on the left side of a roadway.  
14 The bill permits a political subdivision of the state to adopt  
15 an ordinance allowing a vehicle to park on a roadway with the  
16 left-hand wheels of a vehicle within 18 inches of the left-hand  
17 curb, if the political subdivision deems it safer than parking  
18 on the right-hand side of the street during periods of snow,  
19 sleet, or freezing rain or when snow or ice has accumulated on  
20 the roadway. The provision does not apply to a road which is a  
21 primary road extension. Current law prohibits a vehicle from  
22 parking with the left-hand wheels adjacent to the left-hand  
23 curb unless the roadway is a one-way roadway.



Iowa General Assembly  
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House File 2099 - Introduced

HOUSE FILE 2099

BY GARRETT

(COMPANION TO SSB 3040)

A BILL FOR

1 An Act relating to the licensed professionals authorized to  
2 prescribe respiratory care services.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5466YH (1) 84  
jr/sc



Iowa General Assembly  
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H.F. 2099

1 Section 1. Section 152B.2, subsection 1, paragraph a,  
2 subparagraph (2), Code 2011, is amended to read as follows:

3 (2) Direct and indirect respiratory care services,  
4 including but not limited to, the administration of  
5 pharmacological and diagnostic and therapeutic agents related  
6 to respiratory care procedures necessary to implement a  
7 treatment, disease prevention, pulmonary rehabilitative, or  
8 diagnostic regimen prescribed by a licensed physician, ~~or~~  
9 surgeon, physician assistant, or advanced registered nurse  
10 practitioner.

11 Sec. 2. Section 152B.2, subsection 1, paragraph b, Code  
12 2011, is amended to read as follows:

13 *b. "Respiratory care as a practice"* does not include  
14 the delivery, assembly, setup, testing, or demonstration of  
15 respiratory care equipment in the home upon the order of a  
16 licensed physician, physician assistant, or advanced registered  
17 nurse practitioner. As used in this paragraph, "*demonstration*"  
18 does not include the actual teaching, administration, or  
19 performance of the respiratory care procedures.

20 Sec. 3. Section 152B.2, subsection 2, Code 2011, is amended  
21 to read as follows:

22 2. "*Respiratory care protocols*" as used in this section  
23 means policies and procedures developed by an organized health  
24 care system through consultation, when appropriate, with  
25 administrators, licensed physicians and surgeons, licensed  
26 physician assistants, licensed registered nurses, licensed  
27 physical therapists, licensed respiratory care practitioners,  
28 and other licensed health care practitioners.

29 Sec. 4. Section 152B.3, subsection 1, unnumbered paragraph  
30 1, Code 2011, is amended to read as follows:

31 The performance of respiratory care shall be in accordance  
32 with the prescription of a licensed physician, ~~or~~ surgeon,  
33 physician assistant, or advanced registered nurse practitioner  
34 and includes but is not limited to the diagnostic and  
35 therapeutic use of the following:

LSB 5466YH (1) 84

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jr/sc

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H.F. 2099

1 Sec. 5. Section 152B.3, subsection 2, Code 2011, is amended  
2 to read as follows:

3 2. A respiratory care practitioner may transcribe and  
4 implement a written or verbal order from a licensed physician,  
5 ~~or~~ surgeon, physician assistant, or advanced registered nurse  
6 practitioner pertaining to the practice of respiratory care.

7 Sec. 6. Section 152B.4, Code 2011, is amended to read as  
8 follows:

9 **152B.4 Location of respiratory care.**

10 The practice of respiratory care may be performed in a  
11 hospital as defined in section 135B.1, subsection 3, and other  
12 settings where respiratory care is to be provided in accordance  
13 with a prescription of a licensed physician, ~~or~~ surgeon,  
14 physician assistant, or advanced registered nurse practitioner.  
15 Respiratory care may be provided during transportation of a  
16 patient and under circumstances where an emergency necessitates  
17 respiratory care.

18 **EXPLANATION**

19 Respiratory care is a licensed profession that, under  
20 current law, must be prescribed by a licensed physician or  
21 surgeon. This bill allows licensed physician assistants and  
22 licensed advanced registered nurse practitioners to prescribe  
23 respiratory care.

LSB 5466YH (1) 84  
jr/sc

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House File 2100 - Introduced

HOUSE FILE 2100  
BY KRESSIG

A BILL FOR

1 An Act providing a sales tax exemption for textbooks used in  
2 attending a postsecondary educational institution.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5056YH (1) 84  
mm/sc



Iowa General Assembly  
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H.F. 2100

1 Section 1. Section 423.3, Code Supplement 2011, is amended  
2 by adding the following new subsection:

3 NEW SUBSECTION. 96. *a.* The sales price of new and  
4 used textbooks if the textbooks are for use in attending a  
5 postsecondary educational institution.

6 *b.* For purposes of this subsection:

7 (1) "*Postsecondary educational institution*" means an  
8 accredited higher education institution as defined in section  
9 261.92, an Iowa community college, a postsecondary educational  
10 institution under the control of the state board of regents, a  
11 school of cosmetology arts and sciences licensed under chapter  
12 157, or a barber school licensed under chapter 158.

13 (2) "*Textbooks*" means books and other printed materials used  
14 in attending a postsecondary educational institution in this  
15 state.

16 *c.* Postsecondary educational institutions are required  
17 to provide the titles of required and recommended textbooks  
18 for all courses and the corresponding authors, publishers,  
19 and international standard book numbers for such textbooks on  
20 the postsecondary educational institution's internet site for  
21 access to all booksellers and all students. The state board  
22 of regents shall designate the format by which the textbook  
23 information shall be provided.

24 *d.* In order to receive the sales tax exemption, a person is  
25 required to show a current official identification card from a  
26 postsecondary educational institution and either the purchaser  
27 or the bookseller must show that a textbook intended to be  
28 purchased is on a list of textbooks provided by a postsecondary  
29 educational institution under paragraph "*c*".

30 EXPLANATION

31 This bill provides a sales tax exemption for textbooks used  
32 in attending a public or private Iowa postsecondary educational  
33 institution, including licensed cosmetology and barber schools.  
34 "Textbooks" is defined as books and other printed materials.

35 Postsecondary educational institutions are required to

LSB 5056YH (1) 84

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mm/sc

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H.F. 2100

1 provide the titles of textbooks for all courses and the  
2 authors, publishers, and corresponding international standard  
3 book numbers for the textbooks on the institution's internet  
4 site in order for all booksellers and students to have access  
5 to the information. The state board of regents is required to  
6 provide the format in which the textbook information must be  
7 provided.

8 In order to receive the sales tax exemption, a person  
9 must show a current official identification card from a  
10 postsecondary educational institution and either the purchaser  
11 or the bookseller must show that the textbook intended to be  
12 purchased is on an institution's textbooks list.

13 By operation of Code section 423.6, an item exempt from the  
14 imposition of the sales tax is also exempt from the use tax  
15 imposed in Code section 423.5.



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House File 2101 - Introduced

HOUSE FILE 2101  
BY COMMITTEE ON LOCAL  
GOVERNMENT

(SUCCESSOR TO HF 506)

A BILL FOR

1 An Act relating to preparation and recording of public land  
2 survey corner certificates.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2565HV (1) 84  
aw/sc



Iowa General Assembly  
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H.F. 2101

1 Section 1. Section 355.11, Code 2011, is amended by adding  
2 the following new subsection:  
3 NEW SUBSECTION. 3. A public land survey corner certificate  
4 may contain more than one corner that is being certified  
5 as part of the land surveying project. The recorder shall  
6 accept for recording a certificate containing multiple corners  
7 certified pursuant to this section.

8 EXPLANATION

9 This bill permits that more than one United States public  
10 land survey system corner may be included on a United States  
11 public land survey corner certificate recorded by the county  
12 recorder.



Iowa General Assembly  
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House File 2102 - Introduced

HOUSE FILE 2102  
BY J. TAYLOR

A BILL FOR

1 An Act relating to teaching and credit requirements for courses  
2 offered by a school district under the state's educational  
3 standards for grades six through twelve.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5404YH (2) 84  
kh/rj



Iowa General Assembly  
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H.F. 2102

1     Section 1. NEW SECTION.   279.65   Student advancement from  
2   grades six to twelve.

3     1.   A school district shall not issue credit to a student  
4   enrolled in grades six through twelve for a course offered  
5   by the school district pursuant to section 256.11 unless  
6   the student demonstrates proficiency in the coursework by  
7   successfully meeting the minimum course requirements to the  
8   satisfaction of the teacher of record.

9     2.   The minimum course requirements for every course offered  
10   by a school district pursuant to section 256.11 to students  
11   enrolled in grades six through twelve shall be established by  
12   the board of directors of the school district.

13    3.   The teacher of record for a course offered by a school  
14   district to students enrolled in grades six through twelve  
15   pursuant to section 256.11 shall hold an endorsement for the  
16   subject area of the course offered in accordance with section  
17   272.7.

18    4.   For purposes of this section, "*teacher of record*" means  
19   a teacher who teaches at least fifty percent of the course  
20   curriculum contact hours for a course offered by a school  
21   district in accordance with section 256.11, and who is charged  
22   with recording the grade for the course in a student's official  
23   education record.

24    Sec. 2.   STATE MANDATE FUNDING SPECIFIED.   In accordance  
25   with section 25B.2, subsection 3, the state cost of requiring  
26   compliance with any state mandate included in this Act shall  
27   be paid by a school district from state school foundation aid  
28   received by the school district under section 257.16. This  
29   specification of the payment of the state cost shall be deemed  
30   to meet all of the state funding-related requirements of  
31   section 25B.2, subsection 3, and no additional state funding  
32   shall be necessary for the full implementation of this Act  
33   by and enforcement of this Act against all affected school  
34   districts.

35

EXPLANATION

LSB 5404YH (2) 84

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H.F. 2102

1 This bill prohibits a school district from issuing credit  
2 to a student enrolled in grades 6-12 for a course offered by  
3 the school district under the state's educational standards  
4 unless the student demonstrates proficiency in the coursework  
5 by successfully meeting the minimum course requirements to the  
6 satisfaction of the teacher of record.

7 The minimum course requirements must be established by  
8 the board of directors of the school district. The teacher  
9 of record shall hold an endorsement for the subject area of  
10 the course offered. The "teacher of record" is defined to  
11 mean a teacher who teaches at least 50 percent of the course  
12 curriculum contact hours for the course and who is charged with  
13 recording the grade for the course in a student's official  
14 education record.

15 The bill may include a state mandate as defined in Code  
16 section 25B.3. The bill requires that the state cost of  
17 any state mandate included in the bill be paid by a school  
18 district from state school foundation aid received by the  
19 school district under Code section 257.16. The specification  
20 is deemed to constitute state compliance with any state mandate  
21 funding-related requirements of Code section 25B.2. The  
22 inclusion of this specification is intended to reinstate the  
23 requirement of political subdivisions to comply with any state  
24 mandates included in the bill.





Iowa General Assembly  
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House File 2103 - Introduced

HOUSE FILE 2103  
BY COMMITTEE ON LABOR  
  
(SUCCESSOR TO HF 2013)

A BILL FOR

1 An Act reducing the time period during which new employers  
2 are subject to the new employer contribution rate for  
3 unemployment insurance and including effective date  
4 provisions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5346HV (1) 84  
je/rj



Iowa General Assembly  
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H.F. 2103

1 Section 1. Section 96.7, subsection 2, paragraph c,  
2 subparagraphs (1) and (2), Code 2011, are amended to read as  
3 follows:

4 (1) A nonconstruction contributory employer newly subject  
5 to this chapter shall pay contributions at the rate specified  
6 in the twelfth benefit ratio rank but not less than one percent  
7 until the end of the calendar year in which the employer's  
8 account has been chargeable with benefits for ~~twelve~~ four  
9 consecutive calendar quarters immediately preceding the  
10 computation date.

11 (2) A construction contributory employer, as defined under  
12 rules adopted by the department, which is newly subject to this  
13 chapter shall pay contributions at the rate specified in the  
14 twenty-first benefit ratio rank until the end of the calendar  
15 year in which the employer's account has been chargeable  
16 with benefits for ~~twelve~~ four consecutive calendar quarters  
17 immediately preceding the computation date.

18 Sec. 2. EFFECTIVE DATE. This Act takes effect July 1, 2012.

19 EXPLANATION

20 This bill reduces the time period during which construction  
21 and nonconstruction employers are subject to the contribution  
22 rate for new employers for unemployment insurance from three  
23 years to four calendar quarters.

24 The bill takes effect July 1, 2012.

LSB 5346HV (1) 84

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je/rj

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Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
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**House File 2104 - Introduced**

HOUSE FILE 2104  
BY COMMITTEE ON LABOR  
  
(SUCCESSOR TO HF 2012)

**A BILL FOR**

1 An Act reducing the years of experience used to calculate an  
2 employer's contribution rate for unemployment insurance.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5344HV (1) 84  
je/rj



Iowa General Assembly  
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H.F. 2104

1 Section 1. Section 96.7, subsection 2, paragraph c,  
2 subparagraph (3), Code 2011, is amended to read as follows:

3 (3) Thereafter, the employer's contribution rate shall be  
4 determined in accordance with paragraph "d", except that the  
5 employer's average annual taxable payroll and benefit ratio  
6 may be computed, as determined by the department, for less  
7 than ~~five~~ three periods of four consecutive calendar quarters  
8 immediately preceding the computation date.

9 Sec. 2. Section 96.7, subsection 2, paragraph d,  
10 subparagraph (2), unnumbered paragraph 3, Code 2011, is amended  
11 to read as follows:

12 "Benefit ratio" means a number computed to six decimal places  
13 on July 1 of each year obtained by dividing the average of all  
14 benefits charged to an employer during the ~~five~~ three periods  
15 of four consecutive calendar quarters immediately preceding  
16 the computation date by the employer's average annual taxable  
17 payroll.

18 Sec. 3. Section 96.19, subsection 2, Code 2011, is amended  
19 to read as follows:

20 2. "Average annual taxable payroll" means the average of the  
21 total amount of taxable wages paid by an employer for insured  
22 work during the ~~five~~ three periods of four consecutive calendar  
23 quarters immediately preceding the computation date.

24 EXPLANATION

25 This bill reduces the years of experience used to calculate  
26 the benefit ratio for an employer's contribution rate for  
27 unemployment insurance from five to three.

LSB 5344HV (1) 84

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House Study Bill 556 - Introduced

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON COMMERCE BILL BY  
CHAIRPERSON SODERBERG)

A BILL FOR

1 An Act creating an exception to the statutory rule against  
2 perpetuities and making related changes.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5708YC (4) 84  
rh/sc



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1 Section 1. Section 557.7, Code 2011, is amended to read as  
2 follows:

3 **557.7 Contingent remainders.**

4 A Except as provided in section 558.68A, a contingent  
5 remainder shall take effect, notwithstanding any determination  
6 of the particular estate, in the same manner in which it  
7 would have taken effect if it had been an executory devise  
8 or a springing or shifting use, and shall, as well as such  
9 limitations, be subject to the rule respecting remoteness  
10 known as the rule against perpetuities, ~~exclusive of any other~~  
11 ~~supposed rule respecting limitations to successive generations~~  
12 ~~or double possibilities.~~

13 Sec. 2. NEW SECTION. **558.68A Exception to rule against**  
14 **perpetuities.**

15 1. Notwithstanding section 558.68, a rule of law against  
16 perpetuities, a suspension of the power of alienation of  
17 the title to property, or a law restricting or limiting the  
18 duration of trusts shall not apply with respect to any interest  
19 in real or personal property held in trust if the instrument  
20 creating the trust specifically states that such rule or the  
21 provisions of section 558.68 shall not apply to the trust and  
22 if either the trustee of the trust has unlimited power to sell  
23 all trust assets or if one or more persons, one of whom may be  
24 the trustee, has unlimited power to terminate the entire trust.

25 2. A trust of real or personal property created by  
26 an employer as part of a stock bonus plan, pension plan,  
27 disability or death benefit plan, or profit sharing plan, for  
28 the benefit of some or all the employer's employees, to which  
29 contributions are made by the employer or employees, or both,  
30 for the purposes of distributing to the employees or their  
31 beneficiaries the earnings or the principal, or both, of such  
32 trust is not invalid as violating the rule against perpetuities  
33 or any other law restricting or limiting the duration of  
34 trusts; but the trust may continue for the time that is  
35 necessary to accomplish the purposes for which it was created.

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3. Subsection 1 shall be effective for interests in real or personal property in trust created by an inter vivos or testamentary trust or will executed on or after July 1, 2012, or pursuant to the exercise of a general power of appointment created on or after July 1, 2012. For the purposes of this subsection, "*general power of appointment*" means a power that is exercisable in favor of the individual possessing the power, the person's estate, the person's creditors, or the creditors of the person's estate.

| 10 | EXPLANATION |
|----|-------------|
|----|-------------|

11 This bill creates an exception to the statutory rule against  
12 perpetuities codified in Code section 558.68, which is a legal  
13 rule related to invalidating interests in property that are  
14 intended to belong to a person at some point in the future, but  
15 for which the actual determination of ownership cannot or will  
16 not be accomplished within a specified period of time. The  
17 purpose of the rule is to keep property from being frozen in  
18 trust beyond a certain period of years.

19 The bill allows a creator of a trust to suspend, explicitly  
20 in the trust document, the rule from applying to a particular  
21 trust, but only if the trustee has the power to sell all trust  
22 assets or if one or more people, including the trustee, has the  
23 power to terminate the trust.

24 The bill further allows suspension of the rule in situations  
25 where an employer creates a stock bonus plan, pension plan,  
26 disability or death benefit plan, or profit sharing plan, in  
27 trust, for the benefit of the employer's employees, for the  
28 purpose of distributing to the employees or their beneficiaries  
29 earnings or principal or both.

30 The bill applies to all interests in real or personal  
31 property created by testamentary or inter vivos trust or will  
32 be executed on or after July 1, 2012, or to the exercise of a  
33 general power of appointment created on or after July 1, 2012.



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House Study Bill 557 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
WORKFORCE DEVELOPMENT BILL)

A BILL FOR

1 An Act relating to unemployment insurance employer charges and  
2 claimant misrepresentation regarding benefit overpayments,  
3 providing a penalty, and including applicability provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5187DP (7) 84  
je/rj





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1 Section 1. Section 96.3, subsection 7, paragraph b,  
2 subparagraph (1), Code 2011, is amended to read as follows:  
3 (1) (a) If the department determines that an overpayment  
4 has been made, the charge for the overpayment against the  
5 employer's account shall be removed and the account shall  
6 be credited with an amount equal to the overpayment from  
7 the unemployment compensation trust fund and this credit  
8 shall include both contributory and reimbursable employers,  
9 notwithstanding section 96.8, subsection 5. The employer  
10 shall not be relieved of charges if benefits are paid because  
11 the employer failed to respond timely or adequately to the  
12 department's request for information relating to the payment  
13 of benefits. This prohibition against relief of charges shall  
14 apply to both contributory and reimbursable employers.  
15 (b) However, provided the benefits were not received as the  
16 result of fraud or willful misrepresentation by the individual,  
17 benefits shall not be recovered from an individual if the  
18 employer did not participate in the initial determination to  
19 award benefits pursuant to section 96.6, subsection 2, and  
20 an overpayment occurred because of a subsequent reversal on  
21 appeal regarding the issue of the individual's separation  
22 from employment. ~~The employer shall not be charged with the~~  
23 ~~benefits.~~  
24 Sec. 2. Section 96.16, subsection 4, Code 2011, is amended  
25 to read as follows:  
26 4. *Misrepresentation.*  
27 a. An individual who, by reason of the nondisclosure or  
28 misrepresentation by the individual or by another of a material  
29 fact, has received any sum as benefits under this chapter  
30 while any conditions for the receipt of benefits imposed by  
31 this chapter were not fulfilled in the individual's case, or  
32 while the individual was disqualified from receiving benefits,  
33 shall, in the discretion of the department, either be liable  
34 to have the sum deducted from any future benefits payable to  
35 the individual under this chapter or shall be liable to repay

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1 to the department for the unemployment compensation fund, a  
2 sum equal to the amount so received by the individual. If  
3 the department seeks to recover the amount of the benefits by  
4 having the individual pay to the department a sum equal to that  
5 amount, the department may file a lien with the county recorder  
6 in favor of the state on the individual's property and rights  
7 to property, whether real or personal. The amount of the lien  
8 shall be collected in a manner similar to the provisions for  
9 the collection of past-due contributions in section 96.14,  
10 subsection 3.

11 b. The department shall assess a penalty equal to fifteen  
12 percent of the amount of a fraudulent overpayment. The penalty  
13 shall be collected in the same manner as the overpayment. The  
14 penalty shall be added to the amount of any lien filed pursuant  
15 to paragraph "a" and shall not be deducted from any future  
16 benefits payable to the individual under this chapter. Funds  
17 received for overpayment penalties shall be deposited in the  
18 unemployment trust fund.

19 Sec. 3. APPLICABILITY. The section of this Act relating  
20 to relief of charges applies to any overpayment determination  
21 issued on or after July 1, 2012. The section of this Act  
22 providing a penalty relating to fraudulent overpayment applies  
23 to any fraudulent overpayment issued on or after July 1, 2012.

24 EXPLANATION

25 This bill prohibits the department of workforce development  
26 from relieving an employer of charges against the employer's  
27 account for an overpayment of unemployment compensation  
28 benefits if the overpayment occurred because the employer  
29 failed to respond timely or adequately to the department's  
30 request for information relating to the payment of the  
31 benefits.

32 The bill removes the prohibition against charging an  
33 employer's for an overpayment of unemployment compensation  
34 benefits when the overpayment is not recovered from the  
35 claimant because the employer did not participate in an initial

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1 determination to award benefits and the overpayment occurred  
2 because of a subsequent reversal on appeal regarding the issue  
3 of the claimant's separation from employment.

4 The bill establishes a penalty on individuals who receive  
5 unemployment compensation benefits through fraud. The penalty  
6 is equal to 15 percent of the amount of the overpayment and is  
7 to be collected in the same manner as the overpayment but shall  
8 not be collected from any future benefits.

9 The bill applies to any overpayment determination or  
10 fraudulent overpayment issued on or after July 1, 2012.



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House Study Bill 558 - Introduced

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON COMMERCE BILL BY  
CHAIRPERSON SODERBERG)

A BILL FOR

1 An Act relating to stray electric current or voltage and civil  
2 actions to recover resulting damages.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TL5B 5428YC (8) 84  
rn/nh



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1 Section 1. NEW SECTION. 476D.1 Short title.

2 This chapter shall be known and may be cited as the "*Stray*  
3 *Current and Voltage Remediation Act*".

4 Sec. 2. NEW SECTION. 476D.2 Legislative findings and  
5 intent.

6 The general assembly finds that the efficient and safe  
7 distribution of electricity is critical to the well-being  
8 of the citizens and economy of this state, including the  
9 business of agriculture, and that this chapter is necessary for  
10 the protection of the public welfare. The general assembly  
11 recognizes that stray current or voltage is a normal, inherent,  
12 and unavoidable result of electricity traveling through  
13 grounded electrical systems, including a dairy producer's  
14 on-farm system and a utility's distribution system, which  
15 systems are required by the national electrical code and the  
16 national electrical safety code to be grounded to the earth  
17 to ensure continuous safety and reliability. The general  
18 assembly finds that the potential impact of stray current or  
19 voltage on dairy cows is a matter of interest and concern to  
20 dairy producers with dairies situated near and served by a  
21 multigrounded multiple exchange electrical distribution system  
22 or similar electrical distribution system utilized by utilities  
23 in this state. Scientific research has established a level of  
24 stray current or voltage at or below which no effect on a dairy  
25 cow's behavior, health, or milk production has been shown. To  
26 provide for the continued safe and efficient availability of  
27 electricity while addressing complaints regarding stray current  
28 or voltage, it is necessary and appropriate to establish a  
29 uniform preventive action level; establish uniform procedures  
30 and protocols for measurements of stray current or voltage;  
31 require, when necessary, that the sources of stray current  
32 or voltage be identified; require, when necessary, adequate  
33 remediation; and establish procedures for handling complaints.

34 Sec. 3. NEW SECTION. 476D.3 Definitions.

35 As used in this chapter, unless the context otherwise

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1 requires:

2 1. "*Adequate remediation*" means corrective action by a  
3 utility which results in, and is reasonably likely to sustain,  
4 a reduction of stray current or voltage attributable to the  
5 utility's distribution system to fifty percent or less of the  
6 preventive action level.

7 2. "*Board*" means the utilities board within the utilities  
8 division of the department of commerce.

9 3. "*Cow contact points*" means any two electrically  
10 conductive points which a dairy cow may, in its normal  
11 environment, unavoidably and simultaneously contact.

12 4. "*Dairy producer*" means any person or entity that owns or  
13 operates a dairy farm or who owns cows that do or are intended  
14 to produce milk.

15 5. "*Preventive action level*" is stray current or voltage  
16 constituting either of the following:

17 a. A steady-state, root mean square alternating current  
18 of two milliamp or more through a five hundred ohm resistor  
19 connected between cow contact points, as measured by a true  
20 root mean square meter.

21 b. A steady-state, root mean square alternating current  
22 voltage of one volt or more, across or in parallel with a five  
23 hundred ohm resistor connected between cow contact points, as  
24 measured by a true root mean square meter.

25 6. "*Steady-state*" means the value of a current or voltage  
26 after an amount of time where all transients have decayed to a  
27 negligible value.

28 7. "*Stray current or voltage*" means either of the following:

29 a. Any steady-state, sixty hertz, including harmonics  
30 thereof, root mean square alternating current of less than  
31 twenty milliamp through a five hundred ohm resistor connected  
32 between cow contact points, as measured by a true root mean  
33 square meter.

34 b. Any steady-state, sixty hertz, including harmonics  
35 thereof, root mean square alternating current voltage of less

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1 than ten volts, across or in parallel with a five hundred ohm  
2 resistor connected between cow contact points, as measured by  
3 a true root mean square meter.

4 8. *Utility* means a public utility as defined in Code  
5 section 476.1.

6 Sec. 4. NEW SECTION. 476D.4 Rules.

7 The board shall by rule establish standard procedures  
8 and protocols which may be used for the measurement of stray  
9 current or voltage. The board shall review the rules from time  
10 to time, or upon petition to the board, to ensure that the  
11 standard procedures and protocols continue to be scientifically  
12 and technologically accurate and a reliable means of detecting  
13 stray current or voltage. Other measurements of stray current  
14 or voltage made using other procedures and protocols may be  
15 considered by the board in appropriate cases.

16 Sec. 5. NEW SECTION. 476D.5 Claims — notice — utility  
17 response.

18 1. A dairy producer in this state who claims that its dairy  
19 cows are being affected by any form or type of electrical  
20 energy allegedly attributable to a utility including, without  
21 limitation, stray current or voltage, shall, before commencing  
22 any civil action against the utility, provide written notice  
23 of the claim to the utility. The notice shall specify why the  
24 dairy producer believes its dairy cows are being affected by  
25 electrical energy attributable to the utility. Within fourteen  
26 business days of receipt of such notice, if the notice alleges  
27 stray current or voltage, the utility shall make arrangements  
28 to take or cause measurements to be taken at cow contact points  
29 at the dairy producer's dairy to identify the existence and  
30 magnitude of stray current or voltage, if any.

31 2. If the utility finds a level of stray current or voltage  
32 at cow contact points in excess of the preventive action level,  
33 the utility shall promptly identify that portion, if any,  
34 of the stray current or voltage that is attributable to the  
35 utility's distribution system. If that portion of the stray

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1 current or voltage at cow contact points attributable to the  
2 utility's distribution system exceeds fifty percent of the  
3 preventive action level, the utility shall, within fifteen  
4 business days, commence and diligently pursue to completion,  
5 remedial procedures which result in, and are reasonably likely  
6 to sustain, a reduction of the stray current or voltage at  
7 cow contact points attributable to the utility's distribution  
8 system to fifty percent or less of the preventive action level.

9     Sec. 6. NEW SECTION. 476D.6 Jurisdiction — contested case  
10 proceedings — orders.

11     The board shall have exclusive, initial jurisdiction  
12 regarding actions taken pursuant to section 476D.5. Upon  
13 receiving a request from a dairy producer to review such  
14 actions, the board shall conduct a contested case proceeding  
15 pursuant to chapter 17A to determine whether a utility has  
16 complied with the board's rules regarding measurement of  
17 stray current or voltage, whether the utility's measurements  
18 demonstrated stray current or voltage at or above the  
19 preventive action level, whether any other measurements  
20 demonstrated stray current or voltage at or above the  
21 preventive action level, whether the utility properly  
22 identified that portion of the stray current or voltage at  
23 cow contact points attributable to the utility's distribution  
24 system, and whether the utility has complied with its  
25 remediation obligation under this chapter. The board may also  
26 arrange for third-party measurement of stray current or voltage  
27 in cases in which the board finds it reasonable to do so.

28     1. If the board determines that the utility complied with  
29 the rules regarding measurement of stray current or voltage,  
30 and properly identified no stray current or voltage in excess  
31 of the preventive action level, the board may issue an order  
32 that the utility has provided adequate service. The board's  
33 order shall be binding on the parties.

34     2. If the board determines that the utility complied with  
35 the rules regarding measurement of stray current or voltage,

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1 the utility properly identified stray current or voltage in  
2 excess of the preventive action level, and the utility properly  
3 identified that the portion of stray current or voltage  
4 attributable to the utility's distribution system was fifty  
5 percent or less of the preventive action level, the board may  
6 issue an order that the utility provided adequate service. The  
7 board's order shall be binding on the parties, subject only to  
8 the provisions of section 476D.7.

9 3. If the board determines that the utility complied with  
10 the rules regarding measurement of stray current or voltage,  
11 the utility properly identified stray current or voltage  
12 in excess of the preventive action level, and the utility  
13 properly identified that the portion of stray current or  
14 voltage attributable to the utility's distribution system  
15 exceeded fifty percent of the preventive action level, the  
16 board may determine the adequacy of the utility's remediation  
17 efforts. The board's order shall be binding on the parties,  
18 subject only to the provisions of section 476D.7. If the dairy  
19 producer has complied with the notice provisions set forth in  
20 section 476D.5, and the board has made a determination that the  
21 conditions set forth in this subsection are met, then the dairy  
22 producer may, not later than one year following completion of  
23 adequate remediation, or one year following the issuance of the  
24 board's final order, whichever occurs later, commence a civil  
25 action seeking monetary damages against the utility. In any  
26 such civil action, damages shall be limited as set forth in  
27 section 476D.8.

28 4. If the board determines that the utility failed to  
29 comply with the rules regarding measurement of stray current or  
30 voltage, the utility failed to properly identify, when required  
31 pursuant to section 476D.5 to do so, that portion of stray  
32 current or voltage attributable to the utility's distribution  
33 system, or the utility failed to provide adequate remediation,  
34 the board shall order the utility to take measurements of stray  
35 current or voltage in conformance with board rules, or identify



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1 that portion of the stray current or voltage attributable to  
2 the utility's distribution system and, if necessary, to provide  
3 adequate remediation. The board's order shall be binding on  
4 the parties, subject only to the provisions of section 476D.7.  
5 If the dairy producer complied with the notice provisions set  
6 forth in section 476D.5, and the board made a determination  
7 that the portion of stray current or voltage attributable to  
8 the utility's distribution system exceeded fifty percent of  
9 the preventive action level, then the dairy producer may,  
10 not later than one year following completion of adequate  
11 remediation, or one year following the issuance of the board's  
12 final order, whichever occurs later, commence a civil action  
13 seeking monetary damages against the utility. In any such  
14 civil action, damages shall be limited as set forth in section  
15 476D.8.

16 5. If the board determines that a dairy producer made or  
17 pursued a claim in bad faith or for purposes of harassment  
18 of the utility, the board shall require the dairy producer  
19 to pay the utility's actual costs of investigation and  
20 defense. If the board determines that a utility acted in  
21 bad faith, or for purposes of harassment or delay, the board  
22 shall require the utility to pay the dairy producer's actual  
23 costs of investigation, if any, and costs of preparation and  
24 presentation of the claim before the board. The board's order  
25 shall be binding on the parties, subject only to the provisions  
26 of section 476D.7.

27 Sec. 7. NEW SECTION. 476D.7 Civil actions.

28 A civil action shall not be commenced by a dairy producer  
29 against a utility seeking damages or other relief allegedly  
30 due to injury caused by any form or type of electrical energy  
31 allegedly attributable to a utility including, without  
32 limitation, stray current or voltage unless the dairy producer  
33 has complied with the provisions of section 476D.5, and the  
34 board has issued an order pursuant to section 476D.6. In any  
35 civil action against a utility for damages or other relief,

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1 after the dairy producer has complied with the provisions of  
2 section 476D.5, and the board has issued an order pursuant  
3 to section 476D.6, the board's order shall be admissible in  
4 evidence in such civil action.

5 Sec. 8. NEW SECTION. 476D.8 Damages.

6 In any civil action against a utility for damages pursuant  
7 to this chapter or other causes of action where damages  
8 are alleged to be caused by any form or type of electrical  
9 energy allegedly attributable to a utility including, without  
10 limitation, stray current or voltage, a dairy producer shall  
11 be limited to those damages which were incurred by the dairy  
12 producer during that period of time commencing twelve months  
13 prior to the dairy producer's provision of notice to the  
14 utility and ending on the date of completion of adequate  
15 remediation, if any, and with respect to stray current or  
16 voltage claims, were caused by that portion of the stray  
17 current or voltage attributable to the utility's distribution  
18 system. In any action for damages, a utility may assert a  
19 defense of comparative fault as set out in section 668.3.

20 Sec. 9. Section 657.1, subsection 2, Code 2011, is amended  
21 to read as follows:

22 2. Notwithstanding subsection 1, in ~~an~~ any type of nuisance  
23 ~~action to abate a nuisance~~ against an electric utility, an  
24 electric utility may assert a defense of comparative fault as  
25 set out in section 668.3 if the electric utility demonstrates  
26 that in the course of providing electric services to its  
27 customers it has complied with engineering and safety standards  
28 as adopted by the utilities board of the department of  
29 commerce, and if the electric utility has secured all permits  
30 and approvals, as required by state law and local ordinances,  
31 necessary to perform activities alleged to constitute a  
32 nuisance. In addition, a claim for nuisance shall not be  
33 asserted against an electric utility for damages due to stray  
34 current or voltage. Any claim against an electric utility for  
35 damages due to stray current or voltage shall be limited to

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1 claims of negligence, and shall be subject to the provisions of  
2 chapters 476D and 668. The utility's conduct in such claims  
3 shall be judged using a standard of ordinary care under the  
4 existing circumstances.

5 EXPLANATION

6 This bill concerns stray electric current or voltage,  
7 including the potential impact of stray electric current or  
8 voltage on dairy cows, and specifies procedures for adopting  
9 rules, filing complaints, measuring stray electric current or  
10 voltage, taking corrective action, and pursuing civil actions  
11 for damages.

12 The bill commences with a statement of legislative intent,  
13 noting that the general assembly finds that the potential  
14 impact of stray current or voltage on dairy cows is a matter of  
15 interest and concern to dairy producers with dairies situated  
16 near and served by electrical distribution systems utilized by  
17 utilities in Iowa, and that scientific research has established  
18 a level of stray current or voltage at or below which no effect  
19 on a dairy cow's behavior, health, or milk production has been  
20 shown.

21 The bill provides for the adoption of administrative rules  
22 by the Iowa utilities board establishing standard procedures  
23 and protocols for the measurement of stray current or voltage.  
24 The bill states that other measurements of stray current or  
25 voltage made using other procedures and protocols may be  
26 considered by the board in appropriate cases.

27 The bill provides that a dairy producer who claims that its  
28 dairy cows are being affected by any form or type of electrical  
29 energy allegedly attributable to a utility including, without  
30 limitation, stray current or voltage, shall, before commencing  
31 any civil action against the utility, provide written notice  
32 to the utility specifying why the dairy producer believes its  
33 dairy cows are being affected by electrical energy attributable  
34 to the utility. Within 14 business days of receipt of the  
35 notice, if the notice alleges stray current or voltage, the

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1 bill directs the utility to make arrangements to take or cause  
2 measurements to be taken at cow contact points at the dairy  
3 producer's dairy to identify the existence and magnitude of  
4 stray current or voltage, if any. The bill states that if a  
5 level of stray current or voltage in excess of a specified  
6 preventive action level is determined, the utility must  
7 identify that portion which is attributable to the utility's  
8 distribution system. If the portion of the stray current or  
9 voltage at cow contact points attributable to the utility's  
10 distribution system exceeds 50 percent of the preventive action  
11 level, the bill requires the utility, within 15 business days,  
12 to commence and diligently pursue to completion remedial  
13 procedures which shall reduce, and are reasonably likely to  
14 sustain, that portion of the stray current or voltage at cow  
15 contact points attributable to the utility's distribution  
16 system to 50 percent or less of the preventive action level.

17 The bill provides that the board shall have exclusive,  
18 initial jurisdiction regarding complaints by dairy producers  
19 and actions by utilities. Upon receiving a request from a  
20 dairy producer to review such actions, the board shall conduct  
21 a contested case proceeding to determine whether a utility has  
22 complied with the rules regarding measurement of stray current  
23 or voltage, whether the utility's measurements demonstrated  
24 stray current or voltage at or above the preventive action  
25 level, whether any other measurements demonstrated stray  
26 current or voltage at or above the preventive action level,  
27 whether the utility has properly identified that portion of the  
28 stray current or voltage at cow contact points attributable  
29 to the utility's distribution system, and whether the utility  
30 has complied with its remediation obligation. The board is  
31 authorized to arrange for third-party measurement of stray  
32 current or voltage if the board determines it reasonable to do  
33 so.

34 The bill provides, pursuant to a contested case proceeding,  
35 for the issuance of orders by the board. If a utility is found

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1 to have complied with the rules regarding measurement of stray  
2 current or voltage, and properly identified no stray current or  
3 voltage in excess of the preventive action level, the board may  
4 issue an order that the utility has provided adequate service.  
5 If a utility complied with the rules regarding measurement of  
6 stray current or voltage, properly identified stray current  
7 or voltage in excess of the preventive action level, and  
8 properly identified that the portion of stray current or  
9 voltage attributable to the utility's distribution system was  
10 50 percent or less of the preventive action level, the board  
11 may issue an order that the utility provided adequate service.  
12 If a utility complied with the rules regarding measurement of  
13 stray current or voltage, the utility properly identified stray  
14 current or voltage in excess of the preventive action level,  
15 and the utility properly identified that the portion of stray  
16 current or voltage attributable to the utility's distribution  
17 system exceeded 50 percent of the preventive action level, the  
18 board may determine the adequacy of the utility's remediation  
19 efforts. The bill states that in this event, and if a dairy  
20 producer has complied with the notice provisions, the dairy  
21 producer may, not later than one year following completion  
22 of adequate remediation, or one year following the issuance  
23 of the board's final order thereon, whichever occurs later,  
24 commence a civil action seeking monetary damages against  
25 the utility. If a utility failed to comply with the rules  
26 regarding measurement of stray current or voltage, failed to  
27 properly identify when required to do so that portion of stray  
28 current or voltage attributable to the utility's distribution  
29 system, or failed to provide adequate remediation, the board  
30 shall order the utility to take measurements of stray current  
31 or voltage in conformance with board rules, or identify that  
32 portion of the stray current or voltage attributable to the  
33 utility's distribution system and, if necessary, to provide  
34 adequate remediation. The bill states that if a dairy producer  
35 complied with the notice provisions, and the board made a



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1 determination that the portion of stray current or voltage  
2 attributable to the utility's distribution system exceeded 50  
3 percent of the preventive action level, the dairy producer  
4 may, not later than one year following completion of adequate  
5 remediation, or one year following the issuance of the board's  
6 final order, whichever occurs later, similarly commence a civil  
7 action seeking monetary damages against the utility. The bill  
8 states that if a dairy producer made or pursued a claim in bad  
9 faith or for purposes of harassment of the utility, the board  
10 shall require the dairy producer to pay the utility's actual  
11 costs of investigation and defense, and if a utility acted in  
12 bad faith, or for purposes of harassment or delay, the board  
13 shall require the utility to pay the dairy producer's actual  
14 costs of investigation, if any, and costs of preparation and  
15 presentation of the claim before the board.

16 The bill specifies that in any civil action against a  
17 utility for damages alleged to be caused by any form or type  
18 of electrical energy allegedly attributable to a utility  
19 including, without limitation, stray current or voltage, a  
20 dairy producer shall be limited to those damages which were  
21 incurred by the dairy producer during that period of time  
22 commencing 12 months prior to the dairy producer's provision of  
23 notice to the utility and ending on the date of completion of  
24 adequate remediation, if any, and with respect to stray current  
25 or voltage claims, were caused by that portion of the stray  
26 current or voltage attributable to the utility's distribution  
27 system. In any action for damages, a utility may assert a  
28 defense of comparative fault as set out in Code section 668.3.

29 Additionally, with respect to abatement of nuisance  
30 provisions contained in Code section 657.1, the bill provides  
31 that a claim for nuisance shall not be asserted against an  
32 electric utility for damages due to stray current or voltage,  
33 and shall be limited to claims of negligence and subject to  
34 the bill's provisions for claims regarding dairy cows and  
35 the comparative fault provisions of Code chapter 668. The

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1 bill states that a utility's conduct in such claims shall be  
2 judged using a standard of ordinary care under the existing  
3 circumstances.





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House Study Bill 559 - Introduced

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ANDERSON)

A BILL FOR

- 1 An Act revising the Iowa nonprofit corporation Act.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 504.141, subsection 3, Code 2011, is  
2 amended by striking the subsection and inserting in lieu  
3 thereof the following:

4 3. "*Board*" or "*board of directors*" means the group of  
5 individuals responsible for management of the activities and  
6 affairs of a corporation, regardless of the name used to refer  
7 to the group. "*Board*" or "*board of directors*" includes a  
8 designated body to the extent that both of the following are  
9 applicable:

10 a. The powers, functions, or authority of the board have  
11 been vested in, or are exercised by, the designated body.

12 b. The provisions of this chapter in which the term "*board*"  
13 or "*board of directors*" is used are relevant to the discharge  
14 by the designated body of the body's powers, functions, or  
15 authority.

16 Sec. 2. Section 504.141, Code 2011, is amended by adding the  
17 following new subsections:

18 NEW SUBSECTION. 8A. "*Designated body*" means a person or  
19 group, other than a committee of the board of directors, that  
20 has been vested by the articles of incorporation or bylaws  
21 with powers that, if not vested by the articles or bylaws in  
22 that person or group, would be required by this chapter to be  
23 exercised by the board or the members.

24 NEW SUBSECTION. 11A. "*Domestic unincorporated entity*" means  
25 an unincorporated entity whose internal affairs are governed by  
26 the laws of this state.

27 NEW SUBSECTION. 17A. "*Foreign unincorporated entity*" means  
28 an unincorporated entity whose internal affairs are governed by  
29 an organic law of a jurisdiction other than this state.

30 NEW SUBSECTION. 34A. a. "*Unincorporated entity*" means an  
31 organization or other legal entity that is not a corporation  
32 and that either has a separate legal existence or has the power  
33 to acquire an estate in real property in the entity's own name.  
34 "*Unincorporated entity*" includes a general partnership, limited  
35 liability company, limited partnership, business or statutory

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1 trust, joint stock association, and unincorporated nonprofit  
2 association.

3     *b. "Unincorporated entity"* does not include a domestic  
4 or foreign business corporation, a nonprofit corporation, an  
5 estate, a trust, a governmental subdivision, a state, the  
6 United States, or a foreign government.

7     Sec. 3. Section 504.141, subsections 9, 15, and 22, Code  
8 2011, are amended to read as follows:

9     9. *"Directors"* means individuals, designated in the articles  
10 or bylaws or elected by the incorporators, and their successors  
11 and individuals elected or appointed by any other name or title  
12 to act as members of the board. *"Directors"* does not include  
13 individuals who are members of a designated body.

14     15. *"Entity"* includes a ~~corporation and foreign corporation;~~  
15 ~~business corporation and domestic or foreign business~~  
16 ~~corporation; limited liability company and domestic or foreign~~  
17 ~~limited liability company; profit and nonprofit unincorporated~~  
18 ~~association; corporation sole; business trust; domestic or~~  
19 ~~foreign unincorporated entity; estate, partnership, ; trust,~~  
20 ~~and two or more persons having a joint or common economic~~  
21 ~~interest; and; state; the United States, and; governmental~~  
22 subdivision; and foreign government.

23     22. *a. "Member"* means a person who on more than one  
24 occasion, pursuant to the provisions of a corporation's  
25 articles or bylaws, has a right to vote for the election of a  
26 director or directors of a corporation, irrespective of how a  
27 member is defined in the articles or bylaws of the corporation.  
28 A person is not a member because of any of the following:

29     ~~a.~~ (1) The person's rights as a delegate.

30     ~~b.~~ (2) The person's rights to designate a director.

31     ~~c.~~ (3) The person's rights as a director.

32     *b. "Member"* includes a designated body to the extent that  
33 all of the following are applicable:

34     (1) The powers, functions, or authority of the member have  
35 been vested in, or are exercised by, the designated body.



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1     (2) The provisions of this chapter in which the term  
2     "member" is used are relevant to the discharge by the designated  
3     body of the body's powers, functions, or authority.

4     Sec. 4. Section 504.622, Code 2011, is amended by adding the  
5 following new subsection:

6     NEW SUBSECTION. 01. A membership in a public benefit or  
7 mutual benefit corporation may be terminated or suspended for  
8 the reasons and in the manner provided in the articles of  
9 incorporation or bylaws.

10    Sec. 5. Section 504.622, subsection 1, Code 2011, is amended  
11 to read as follows:

12    1. A To the extent the articles of incorporation or bylaws  
13 do not address the termination or suspension of a member, a  
14 member of a public benefit or mutual benefit corporation shall  
15 not be expelled or suspended, and a membership or memberships  
16 in such a corporation shall not be terminated or suspended  
17 except pursuant to a procedure which is fair and reasonable and  
18 is carried out in good faith.

19    Sec. 6. Section 504.701, Code 2011, is amended by adding the  
20 following new subsection:

21    NEW SUBSECTION. 7. The articles of incorporation or  
22 bylaws may provide that an annual or regular meeting of  
23 members is not required to be held at a geographic location  
24 if the meeting is held by means of the internet or other  
25 electronic communications technology in a manner pursuant to  
26 which the members have the opportunity to read or hear the  
27 proceedings substantially concurrent with the occurrence of the  
28 proceedings, vote on matters submitted to the members, pose  
29 questions, and make comments.

30    Sec. 7. Section 504.702, Code 2011, is amended by adding the  
31 following new subsection:

32    NEW SUBSECTION. 6. The articles of incorporation or bylaws  
33 may provide that a special meeting of members is not required  
34 to be held at a geographic location if the meeting is held  
35 by means of the internet or other electronic communications

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1 technology in a manner pursuant to which the members have the  
2 opportunity to read or hear the proceedings substantially  
3 concurrent with the occurrence of the proceedings, vote on  
4 matters submitted to the members, pose questions, and make  
5 comments.

6 Sec. 8. NEW SECTION. 504.709 Conduct of meetings.

7 1. At each meeting of members, an individual shall preside  
8 as chair. The chair shall be appointed as follows:

9 a. As provided in the articles of incorporation or bylaws.

10 b. In the absence of a provision in the articles of  
11 incorporation or bylaws, by the board of directors.

12 c. In the absence of both a provision in the articles of  
13 incorporation or bylaws and an appointment of the chair by the  
14 board, by the members at the meeting.

15 2. Except as provided in the articles of incorporation or  
16 bylaws, the chair shall determine the order of business and  
17 shall have the authority to establish rules for the conduct of  
18 the meeting.

19 3. Any rules adopted for, and the conduct of, the meeting  
20 shall be fair to the members.

21 4. The chair of the meeting shall announce at the meeting  
22 when the polls close for each matter voted upon. If no  
23 announcement is made, the polls shall be deemed to have closed  
24 upon the final adjournment of the meeting. After the polls  
25 are closed, no ballots, proxies, or votes, or any otherwise  
26 permissible revocations or changes thereto may be accepted.

27 Sec. 9. NEW SECTION. 504.719 Inspectors of election.

28 1. A corporation with members may appoint one or more  
29 inspectors to act at a meeting of members and to make a report  
30 in the form of a record of the inspectors' determinations.  
31 Each inspector shall execute the duties of inspector  
32 impartially and according to the best of the inspector's  
33 ability.

34 2. The inspectors shall do all of the following:

35 a. Ascertain the number of members and their voting power.

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- 1     *b.* Determine the members present at the meeting.  
2     *c.* Determine the validity of proxies and ballots.  
3     *d.* Count all votes.  
4     *e.* Determine the result of the voting.  
5     3. An inspector may, but is not required to, be a director,  
6 member of a designated body, member, officer, or employee of  
7 the corporation. A person who is a candidate for an office  
8 to be filled at the meeting shall not be an inspector at that  
9 meeting.  
10    Sec. 10. Section 504.801, subsection 2, Code 2011, is  
11 amended to read as follows:  
12    2. Except as otherwise provided in this chapter or  
13 ~~subsection 3~~ section 504.813, all corporate powers shall be  
14 exercised by or under the authority of, and the affairs of the  
15 corporation managed under the direction of, and subject to the  
16 oversight of, its board of directors.  
17    Sec. 11. Section 504.801, subsection 3, Code 2011, is  
18 amended by striking the subsection.  
19    Sec. 12. **NEW SECTION. 504.813 Designated body.**  
20    1. Some, but not all, of the powers, authority, or functions  
21 of the board of directors of a corporation under this chapter  
22 may be vested by the articles of incorporation or bylaws in a  
23 designated body. If such a designated body is created, all of  
24 the following are applicable:  
25    *a.* The provisions of this part and other provisions of  
26 law applicable to the rights, duties, and liabilities of the  
27 board of directors or directors individually also apply to  
28 the designated body and to the members of the designated body  
29 individually. The provisions of this part and other provisions  
30 of law applicable to meetings, notice, and actions of the board  
31 of directors also apply to the designated body in the absence  
32 of an applicable rule in the articles of incorporation, bylaws,  
33 or internal operating rules of the designated body.  
34    *b.* To the extent that the powers, authority, or functions of  
35 the board of directors have been vested in the designated body,



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1 the directors are relieved from their duties and liabilities  
2 with respect to those powers, authority, and functions.

3     *c.* A provision of the articles of incorporation or bylaws  
4 regarding the indemnification of directors or limiting the  
5 liability of directors adopted pursuant to section 504.202,  
6 subsection 2, paragraphs "*d*" and "*e*" is applicable to members  
7 of the designated body, except as otherwise provided in the  
8 articles of incorporation or bylaws.

9     2. Some, but not all, of the rights or obligations of the  
10 members of a corporation under this chapter may be vested in  
11 a designated body by the articles of incorporation or bylaws.  
12 If such a designated body is created, all of the following are  
13 applicable:

14     *a.* The provisions of this part and other provisions of  
15 law applicable to the rights and obligations of members also  
16 apply to the designated body and to members of the designated  
17 body individually. The provisions of this part and other  
18 provisions of law applicable to meetings, notice, and actions  
19 of members also apply to the designated body in the absence  
20 of an applicable provision in the articles of incorporation,  
21 bylaws, or internal operating rules of the designated body.

22     *b.* To the extent the rights or obligations of the members  
23 have been vested in the designated body, the members are  
24 relieved from responsibility with respect to those rights and  
25 obligations.

26     3. The articles of incorporation or bylaws may prescribe  
27 qualifications for members of a designated body. Except  
28 as otherwise provided in the articles of incorporation or  
29 bylaws, a member of a designated body is not required to be an  
30 individual; a director, officer, or member of the corporation;  
31 or a resident of this state.

32     Sec. 13. Section 504.826, Code 2011, is amended by adding  
33 the following new subsection:

34     NEW SUBSECTION. 7. A corporation may create or authorize  
35 the creation of one or more advisory committees whose members

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1 are not required to be directors. An advisory committee is not  
2 a committee of the board of directors and shall not exercise  
3 any powers of the board.

4 Sec. 14. Section 504.831, Code 2011, is amended by adding  
5 the following new subsection:

6 NEW SUBSECTION. 2A. In discharging board or committee  
7 duties, a director must disclose, or cause to be disclosed, to  
8 the other board or committee members, information not already  
9 known by them, but known by the director to be material to the  
10 discharge of the decision-making or oversight functions of the  
11 board or committee, except that such disclosure is not required  
12 to the extent that the director reasonably believes that doing  
13 so would violate a duty imposed by law, a legally enforceable  
14 obligation of confidentiality, or a professional ethics rule.

15 Sec. 15. Section 504.831, subsection 5, paragraph c, Code  
16 2011, is amended to read as follows:

17 c. A committee of the board or advisory committee of  
18 which the director is not a member, as to matters within  
19 ~~its~~ the committee's or advisory committee's jurisdiction, if  
20 the director reasonably believes the committee or advisory  
21 committee merits confidence.

22 Sec. 16. Section 504.834, Code 2011, is amended by adding  
23 the following new subsection:

24 NEW SUBSECTION. 1A. This section does not apply to any of  
25 the following:

26 a. An advance to pay reimbursable expenses reasonably  
27 expected to be incurred by a director or officer.

28 b. An advance to pay premiums on life insurance if the  
29 advance is secured by the cash value of the policy.

30 c. An advance made pursuant to part 5 of this subchapter  
31 VIII.

32 d. Loans or advances made pursuant to employee benefit  
33 plans.

34 e. A loan secured by the principal residence of an officer.

35 f. A loan to pay relocation expenses of an officer.

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1     Sec. 17. NEW SECTION. 504.836 **Business opportunities.**  
2     1. A director's taking advantage, directly or indirectly,  
3 of a business opportunity shall not be the subject of equitable  
4 relief, or give rise to an award of damages or other sanctions  
5 against the director, in a proceeding by or in the right of a  
6 corporation on the ground that such opportunity should have  
7 first been offered to the corporation, if before becoming  
8 legally obligated respecting the business opportunity, the  
9 director brings the opportunity to the attention of the  
10 corporation and action is taken by the directors, a committee  
11 of the directors, or the members disclaiming the corporation's  
12 interest in the opportunity in compliance with the procedures  
13 set forth in section 504.833, as if the decision being made  
14 concerned a conflict of interest transaction.  
15     2. In any proceeding seeking equitable relief or other  
16 remedy, based upon an alleged improper taking advantage of a  
17 business opportunity by a director, the fact that the director  
18 did not employ the procedure described in subsection 1 before  
19 taking advantage of the opportunity shall not create an  
20 inference that the opportunity should have first been presented  
21 to the corporation, or alter the burden of proof otherwise  
22 applicable to establish that the director breached a duty to  
23 the corporation under the circumstances.  
24     3. As used in this section, "*director*" includes a member of  
25 a designated body.  
26     Sec. 18. Section 504.843, Code 2011, is amended by adding  
27 the following new subsection:  
28     NEW SUBSECTION. 1A. The duties of an officer include the  
29 obligation to inform the specified persons of the following:  
30     a. The superior officer to whom or the board of directors  
31 or the committee of the board to which the officer reports, of  
32 information about the affairs of the corporation known to the  
33 officer, within the scope of the officer's functions, and known  
34 to the officer to be material to the superior officer, board,  
35 or committee.



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1     *b.* The officer's superior officer, or another appropriate  
2 person within the corporation, or the board of directors, or  
3 a committee of the board, of any actual or probable material  
4 violation of law involving the corporation or any material  
5 breach of duty to the corporation by an officer, employee,  
6 or agent of the corporation, that the officer believes has  
7 occurred or is likely to occur.

8     Sec. 19. Section 504.1101, subsection 1, Code 2011, is  
9 amended to read as follows:

10     1. Subject to the limitations set forth in section 504.1102,  
11 one or more nonprofit corporations may merge with or into any  
12 one or more business corporations or nonprofit corporations or  
13 ~~limited liability companies~~ unincorporated entities, if the  
14 plan of merger is approved as provided in section 504.1103.

15     Sec. 20. Section 504.1101, subsection 2, paragraphs a, c,  
16 and d, Code 2011, are amended to read as follows:

17     *a.* The name of each corporation or ~~limited liability company~~  
18 unincorporated entity planning to merge and the name of the  
19 surviving corporation into which each plans to merge.

20     *c.* The manner and basis, if any, of converting the  
21 memberships of each public benefit or religious corporation  
22 into memberships of the surviving corporation or ~~limited~~  
23 ~~liability company~~ unincorporated entity.

24     *d.* If the merger involves a mutual benefit corporation,  
25 the manner and basis, if any, of converting memberships of  
26 each merging corporation into memberships, obligations, or  
27 securities of the surviving or any other corporation or ~~limited~~  
28 ~~liability company~~ unincorporated entity or into cash or other  
29 property in whole or in part.

30     Sec. 21. Section 504.1101, subsection 3, paragraph a, Code  
31 2011, is amended to read as follows:

32     *a.* Any amendments to the articles of incorporation or bylaws  
33 of the surviving corporation or ~~limited liability company~~  
34 unincorporated entity to be effected by the planned merger.

35     Sec. 22. Section 504.1102, subsection 1, paragraphs a and b,

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1 Code 2011, are amended to read as follows:

2     ~~a. A public benefit or religious corporation, or a~~  
3 domestic unincorporated entity which, if incorporated, would  
4 qualify under this chapter as a public benefit or religious  
5 corporation.

6     ~~b. A foreign corporation which would qualify under this~~  
7 chapter as a public benefit or religious corporation, or a  
8 foreign unincorporated entity which, if incorporated, would  
9 qualify under this chapter as a public benefit or religious  
10 corporation.

11     Sec. 23. Section 504.1102, subsection 1, paragraph d,  
12 unnumbered paragraph 1, Code 2011, is amended to read as  
13 follows:

14     ~~A business or mutual benefit corporation, or limited~~  
15 ~~liability company~~ an unincorporated entity which, if  
16 incorporated, would not qualify as a public benefit or  
17 religious corporation, provided that all of the following apply  
18 where the public benefit or religious corporation is not the  
19 surviving entity in the merger:

20     Sec. 24. Section 504.1102, subsection 1, paragraph d,  
21 subparagraphs (2) and (3), Code 2011, are amended to read as  
22 follows:

23     (2) ~~The business or mutual benefit corporation or limited~~  
24 ~~liability company~~ unincorporated entity which, if incorporated,  
25 would not qualify as a public benefit or religious corporation,  
26 shall return, transfer, or convey any assets held by it upon  
27 condition requiring return, transfer, or conveyance, which  
28 condition occurs by reason of the merger, in accordance with  
29 such condition.

30     (3) The merger is approved by a majority of directors of  
31 the public benefit or religious corporation or managers of  
32 an unincorporated entity which, if incorporated, would not  
33 qualify as a public benefit or religious corporation, who are  
34 not and will not become members or shareholders in or officers,  
35 employees, agents, or consultants of the surviving entity.

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1 Sec. 25. Section 504.1106, subsection 1, Code 2011, is  
2 amended to read as follows:

3 1. Except as provided in section 504.1102, one or more  
4 foreign business or nonprofit corporations or foreign  
5 unincorporated entities may merge with one or more domestic  
6 nonprofit corporations if all of the following conditions are  
7 met:

8 a. The merger is permitted by the law of the state or  
9 country under whose law each foreign corporation or foreign  
10 unincorporated entity is incorporated and each foreign  
11 corporation or foreign unincorporated entity complies with that  
12 law in effecting the merger.

13 b. The foreign corporation or foreign unincorporated  
14 entity complies with section 504.1104 if it is the surviving  
15 corporation of the merger.

16 c. Each domestic nonprofit corporation complies with the  
17 applicable provisions of sections 504.1101 through 504.1103  
18 and, if it is the surviving corporation of the merger, with  
19 section 504.1104.

20 Sec. 26. Section 504.1106, subsection 2, Code 2011, is  
21 amended to read as follows:

22 2. Upon the merger taking effect, the surviving foreign  
23 business or nonprofit corporation, or foreign unincorporated  
24 entity, is deemed to have irrevocably appointed the secretary  
25 of state as its agent for service of process in any proceeding  
26 brought against it.

27 EXPLANATION

28 This bill makes various revisions to the Iowa nonprofit  
29 corporation Act.

30 Code section 504.141 is amended to add a definition of a  
31 "designated body" which is a person or group other than a  
32 committee of the board of directors that is vested by the  
33 articles of incorporation or bylaws of a nonprofit corporation  
34 with powers otherwise required to be exercised by the corporate  
35 board of directors or the members. Other definitions are

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1 modified to include a designated body within the meaning of the  
2 "board of directors" or as a "member" of the corporation and to  
3 exclude individuals who are members of a designated body from  
4 the definition of a "director".

5 Code section 504.141 is also amended to provide that an  
6 "entity" includes an "unincorporated entity" and to include  
7 a definition of an "unincorporated entity" which is an  
8 organization or other legal entity that is not a corporation  
9 and that either has a separate legal existence or has the  
10 power to acquire an estate in real property in the entity's  
11 own name. An "unincorporated entity" includes specified  
12 types of legal entities that are not corporations. An  
13 "unincorporated entity" also does not include an estate, a  
14 trust, a governmental subdivision, a state, the United States,  
15 or a foreign government. There are also definitions for a  
16 "domestic unincorporated entity" whose affairs are governed  
17 by Iowa law and for a "foreign unincorporated entity" whose  
18 affairs are governed by the law of another jurisdiction.

19 Code section 504.622 is amended to provide that membership  
20 in a public benefit or mutual benefit corporation may be  
21 terminated or suspended as provided in the articles of  
22 incorporation or bylaws and to the extent that those items do  
23 not address such a termination or suspension, the procedure  
24 must be carried out in good faith in a manner which is fair and  
25 reasonable.

26 Code sections 504.701 and 504.702 are amended to allow a  
27 nonprofit corporation with members to hold an annual or regular  
28 meeting or a special meeting by means of the internet or other  
29 electronic communications technology so long as members have  
30 the opportunity to read or hear the proceedings substantially  
31 concurrent with the occurrence of the proceedings and can vote,  
32 pose questions, and make comments.

33 New Code section 504.709 requires that an individual preside  
34 as chair at each meeting of corporate members as provided in  
35 the articles of incorporation or bylaws, as appointed by the

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1 board, or as appointed by members at the meeting. Unless  
2 otherwise provided by the articles or bylaws, the chair shall  
3 determine the order of business and establish rules for the  
4 conduct of the meeting.

5 New Code section 504.719 allows a nonprofit corporation with  
6 members to appoint one or more inspectors to assist with voting  
7 at the meeting and make a report of their determinations and  
8 the results of the vote.

9 Code section 504.801 is amended to provide that, with the  
10 exception of corporate powers that are vested in a designated  
11 body, all such powers shall be exercised by or under the  
12 authority of, and the affairs of the corporation shall be  
13 managed under the direction and subject to the oversight of,  
14 the board of directors.

15 New Code section 504.813 allows some, but not all, of the  
16 powers, authority, or functions of the board of directors,  
17 or of the rights or obligations of members, of a nonprofit  
18 corporation to be vested by the articles of incorporation or  
19 bylaws in a designated body. If such a designated body is  
20 created, provisions of law applicable to the powers, authority,  
21 functions, rights, or obligations of the board of directors,  
22 the directors individually, or the members apply to the  
23 designated body and its members individually and the directors  
24 or members are relieved of their duties and liabilities with  
25 respect to those matters vested in the designated body.

26 Code section 504.826 is amended to provide that a nonprofit  
27 corporation can create or authorize the creation of one or  
28 more advisory committees whose members are not required to be  
29 directors of the corporation. Such an advisory committee is  
30 not a committee of the board and cannot exercise any powers of  
31 the board.

32 Code section 504.831 is amended to provide that in  
33 discharging board or committee duties a corporate director  
34 must disclose information to the other board or committee  
35 members that is not known to them but known by the director to

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1 be material to their decision-making or oversight functions,  
2 except when such disclosure would violate a legal duty,  
3 a legally enforceable obligation of confidentiality, or a  
4 professional ethics rule.

5 Code section 504.831 is also amended to allow a director to  
6 rely on a committee of the board or an advisory committee of  
7 which the director is not a member as to matters within the  
8 committee or advisory committee's jurisdiction, if the director  
9 reasonably believes the committee or advisory committee merits  
10 confidence.

11 Code section 504.834 is amended to provide that the  
12 prohibition of that Code section against lending money to or  
13 guaranteeing the obligation of a director or officer of the  
14 corporation does not apply to certain specified advances and  
15 loans.

16 New Code section 504.836 provides that a director's taking  
17 advantage, directly or indirectly, of a business opportunity  
18 cannot be the subject of equitable relief or give rise to an  
19 award of damages or other sanctions against the director, in  
20 a proceeding by or in the right of a nonprofit corporation on  
21 the ground that the business opportunity should have first  
22 been offered to the corporation if before becoming legally  
23 obligated on the business opportunity, the director brings the  
24 opportunity to the attention of the corporation and action  
25 is taken by the directors, a committee of the directors, or  
26 the members disclaiming the corporation's interest in the  
27 opportunity. This disclaimer must be made in compliance with  
28 procedures set forth in Code section 504.833 for conflict of  
29 interest transactions by directors. However, in an action  
30 seeking equitable relief or other remedy based upon an alleged  
31 improper taking advantage of such a business opportunity by a  
32 director, the fact that the above procedure was not complied  
33 with does not create an inference that the opportunity should  
34 have been presented to the corporation or alter the burden  
35 of proof necessary to establish a breach of duty to the

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1 corporation by the director.

2 Code section 504.843 is amended to provide that a corporate  
3 officer has the duty to provide information to specified  
4 persons within the corporation about the affairs of the  
5 corporation known to the officer to be material and about any  
6 actual or probable material violation of law involving the  
7 corporation or any material breach of duty to the corporation  
8 by an officer, employee, or agent of the corporation.

9 Code section 504.1101 which applies to mergers of nonprofit  
10 corporations with other entities, is amended to substitute  
11 the newly defined term "unincorporated entity" for "limited  
12 liability company". A limited liability company is now  
13 encompassed within the definition of an "unincorporated  
14 entity", which includes other types of entities as well.

15 Code section 504.1102, which allows certain mergers by  
16 public benefit or religious corporations without prior  
17 approval of the district court, is amended to also apply to a  
18 newly defined "domestic unincorporated entity" and "foreign  
19 unincorporated entity" which, if incorporated, would qualify  
20 as a public benefit or religious corporation, and to an  
21 "unincorporated entity", which if incorporated, would not  
22 qualify as a public benefit or religious corporation, but meets  
23 other specifications.

24 Code section 504.1102 is also amended to provide that when  
25 a merger of a public benefit or religious corporation with  
26 a business or mutual benefit corporation or unincorporated  
27 entity, which if incorporated would not qualify as a public  
28 benefit or religious corporation, will result in the public  
29 benefit or religious corporation not surviving, certain  
30 conditions must be met.

31 Code section 504.1106 is amended to allow mergers between a  
32 newly defined "foreign unincorporated entity" and a domestic  
33 nonprofit corporation under specified conditions.

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House Study Bill 560 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS  
BILL)

A BILL FOR

1 An Act relating to regular inspections of state-licensed health  
2 care facilities and including effective date and retroactive  
3 applicability provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. REPEAL. 2011 Iowa Acts, chapter 127, sections  
2 16 and 74, are repealed.

3 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
4 immediate importance, takes effect upon enactment.

5 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies  
6 retroactively to October 24, 2011.

7 EXPLANATION

8 This bill repeals the moratorium on regular  
9 state-licensed-only health care facility inspections.

10 The bill is effective upon enactment and applies retroactively  
11 to October 24, 2011.



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House Study Bill 561 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC HEALTH BILL)

A BILL FOR

1 An Act relating to the Iowa health information network,  
2 providing for fees, and including effective date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:



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1 Section 1. Section 135.154, Code 2011, is amended by adding  
2 the following new subsections:  
3 NEW SUBSECTION. 01. "*Advisory council*" means the electronic  
4 health information advisory council created in section 135.156.  
5 NEW SUBSECTION. 001. "*Authorized*" means having met the  
6 requirements as a participant for access to and use of the Iowa  
7 health information network.  
8 NEW SUBSECTION. 2A. "*Exchange*" means the authorized  
9 electronic sharing of health information between health care  
10 professionals, payors, consumers, public health agencies, the  
11 department, and other authorized participants utilizing the  
12 Iowa health information network and Iowa health information  
13 network services.  
14 NEW SUBSECTION. 2B. "*Executive committee*" means the  
15 executive committee of the electronic health information  
16 advisory council created in section 135.156.  
17 NEW SUBSECTION. 3A. "*Health information*" means any  
18 information, in any form or medium, that is created,  
19 transmitted, or received by a health care professional, payor,  
20 consumer, public health agency, the department, or other  
21 authorized participant, which relates to the past, present, or  
22 future physical or mental health or condition of an individual;  
23 the provision of health care to an individual; or the past,  
24 present, or future payment for the provision of health care to  
25 an individual.  
26 NEW SUBSECTION. 4A. "*Health Insurance Portability and*  
27 *Accountability Act*" means the federal Health Insurance  
28 Portability and Accountability Act of 1996, Pub. L. No.  
29 104-191, including amendments thereto and regulations  
30 promulgated thereunder.  
31 NEW SUBSECTION. 5A. "*Iowa health information network*" or  
32 "*network*" means the statewide health information technology  
33 network created in this division.  
34 NEW SUBSECTION. 5B. "*Iowa Medicaid enterprise*" means the  
35 Iowa Medicaid enterprise as defined in section 249J.3.



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1     NEW SUBSECTION. 5C. "*Participant*" means an authorized  
2 health care professional, payor, patient, health care  
3 organization, public health agency, or the department that  
4 has agreed to authorize, submit, access, or disclose health  
5 information through the Iowa health information network in  
6 accordance with this chapter and all applicable laws, rules,  
7 agreements, policies, and standards.  
8     NEW SUBSECTION. 5D. "*Patient*" means a person who has  
9 received or is receiving health services from a health care  
10 professional.  
11    NEW SUBSECTION. 5E. "*Payor*" means a person who makes  
12 payments for health services, including but not limited to an  
13 insurance company, self-insured employer, government program,  
14 individual, or other purchaser that makes such payments.  
15    NEW SUBSECTION. 5F. "*Protected health information*" means  
16 individually identifiable information, including demographic  
17 information, related to the past, present, or future health  
18 or condition of a person; the provision of health care to  
19 a person; or the past, present, or future payment for such  
20 health care; which is created, transmitted, or received by a  
21 participant. "*Protected health information*" does not include  
22 education or other records that are covered under the federal  
23 Family Educational Rights and Privacy Act of 1974, as codified  
24 at 20 U.S.C. § 1232g, as amended; or any employment records  
25 maintained by a covered entity, as defined under the Health  
26 Insurance Portability and Accountability Act, in its role as  
27 an employer.  
28    NEW SUBSECTION. 5G. "*Public health agency*" means an  
29 entity that is governed by or contractually responsible to a  
30 local board of health or the department to provide services  
31 focused on the health status of population groups and their  
32 environments.  
33    NEW SUBSECTION. 5H. "*Purchaser*" means any individual,  
34 employer, or organization that purchases health insurance or  
35 services and includes intermediaries.



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1 Sec. 2. Section 135.155, subsection 2, unnumbered paragraph  
2 1, Code 2011, is amended to read as follows:

3 To be effective, the Iowa health information ~~technology~~  
4 ~~system network~~ shall comply with all of the following  
5 principles:

6 Sec. 3. Section 135.155, subsection 3, Code 2011, is amended  
7 to read as follows:

8 3. Widespread adoption of health information technology is  
9 critical to a successful Iowa health information ~~technology~~  
10 ~~system network~~ and is best achieved when all of the following  
11 occur:

12 a. The market provides a variety of certified products from  
13 which to choose in order to best fit the needs of the user.

14 b. The ~~system network~~ provides incentives for health care  
15 professionals to utilize the health information technology and  
16 provides rewards for any improvement in quality and efficiency  
17 resulting from such utilization.

18 c. The ~~system network~~ provides protocols to address critical  
19 problems.

20 d. The ~~system network~~ is financed by all who benefit from  
21 the improved quality, efficiency, savings, and other benefits  
22 that result from use of health information technology.

23 Sec. 4. NEW SECTION. 135.155A Findings and intent — Iowa  
24 health information network.

25 1. The general assembly finds all of the following:

26 a. Technology used to support health care-related functions  
27 is known as health information technology. Health information  
28 technology provides a mechanism to transform the delivery of  
29 health and medical care in Iowa and across the nation.

30 b. A health information network involves the secure  
31 electronic sharing of health information across the boundaries  
32 of individual practice and institutional health settings and  
33 with consumers. Broad use of health information technology and  
34 a health information network should improve health care quality  
35 and the overall health of the population, increase efficiencies



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1 in administrative health care, reduce unnecessary health care  
2 costs, and help prevent medical errors.

3 2. It is the intent of the general assembly that Iowa  
4 establish a statewide health information technology network.  
5 The Iowa health information network shall not constitute a  
6 health benefit network or a health insurance network. Nothing  
7 in this division shall be interpreted to impede or preclude the  
8 formation and operation of regional, population-specific, or  
9 local health information networks or their participation in the  
10 Iowa health information network.

11 Sec. 5. Section 135.156, subsection 1, paragraphs a and b,  
12 Code Supplement 2011, are amended to read as follows:

13 a. The department shall direct a public and private  
14 collaborative effort to promote the adoption and use of health  
15 information technology in this state in order to improve  
16 health care quality, increase patient safety, reduce health  
17 care costs, enhance public health, and empower individuals  
18 and health care professionals with comprehensive, real-time  
19 medical information to provide continuity of care and make  
20 the best health care decisions. The department shall provide  
21 coordination for the development and implementation of an  
22 interoperable electronic health records system, telehealth  
23 expansion efforts, the health information technology  
24 infrastructure, the Iowa health information network, and other  
25 health information technology initiatives in this state.  
26 The department shall be guided by the principles and goals  
27 specified in section 135.155 and the findings and intent  
28 specified for an Iowa health information network in section  
29 135.155A.

30 b. All health information technology efforts shall endeavor  
31 to represent the interests and meet the needs of consumers and  
32 the health care sector, protect the privacy of individuals  
33 and the confidentiality of individuals' information, promote  
34 physician best practices, and make information easily  
35 accessible to the appropriate parties. The ~~system~~ network



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1 developed shall be consumer-driven, flexible, and expandable.

2 Sec. 6. Section 135.156, subsection 2, paragraph a, Code  
3 Supplement 2011, is amended to read as follows:

4 a. An electronic health information advisory council is  
5 established which shall consist of the representatives of  
6 entities involved in the electronic health records system task  
7 force established pursuant to section 217.41A, Code 2007, a  
8 pharmacist, a licensed practicing physician, a consumer who  
9 is a member of the state board of health, a representative  
10 of the state's Medicare quality improvement organization,  
11 the executive director of the Iowa communications network, a  
12 representative of the private telecommunications industry, a  
13 representative of the Iowa collaborative safety net provider  
14 network created in section 135.153, a nurse informaticist from  
15 the university of Iowa, and any other members the department  
16 or executive committee of the advisory council determines  
17 necessary and appoints to assist the department or executive  
18 committee at various stages of development of the ~~electronic~~  
19 Iowa health information system network. Executive branch  
20 agencies shall also be included as necessary to assist in the  
21 duties of the department and the executive committee. Public  
22 members of the advisory council shall receive reimbursement  
23 for actual expenses incurred while serving in their official  
24 capacity only if they are not eligible for reimbursement by  
25 the organization that they represent. Any legislative members  
26 shall be paid the per diem and expenses specified in section  
27 2.10.

28 Sec. 7. Section 135.156, subsection 3, paragraph a,  
29 subparagraphs (6) and (10), Code Supplement 2011, are amended  
30 to read as follows:

31 (6) Policies relating to governance of the various facets of  
32 the Iowa health information ~~technology system~~ network.

33 (10) Economic incentives and support to facilitate  
34 participation in an interoperable system network by health care  
35 professionals.





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1     Sec. 8. Section 135.156, subsection 3, paragraph c,  
2 unnumbered paragraph 1, Code Supplement 2011, is amended to  
3 read as follows:  
4     Coordinate public and private efforts to provide the  
5 network backbone infrastructure for the Iowa health information  
6 ~~technology-system~~ network. In coordinating these efforts, the  
7 executive committee shall do all of the following:  
8     Sec. 9. Section 135.156, subsection 3, paragraphs h and i,  
9 Code Supplement 2011, are amended to read as follows:  
10    *h.* Seek and apply for any federal or private funding to  
11 assist in the implementation and support of the Iowa health  
12 information ~~technology-system~~ network and make recommendations  
13 for funding mechanisms for the ongoing development and  
14 maintenance costs of the Iowa health information ~~technology~~  
15 ~~system~~ network.  
16    *i.* Identify state laws and rules that present barriers  
17 to the development of the Iowa health information ~~technology~~  
18 ~~system~~ network and recommend any changes to the governor and  
19 the general assembly.  
20    Sec. 10. NEW SECTION. 135.156A Iowa health information  
21 network — business and financial sustainability plan and  
22 participant fees.  
23    1. The board, with the support of the department and  
24 the advice of the executive committee and advisory council,  
25 shall establish and annually review and update a business and  
26 financial sustainability plan for the Iowa health information  
27 network. The plan shall include fees to be paid to the  
28 department by participants who choose to access and use the  
29 Iowa health information network. The participant fee schedule  
30 shall be structured using fair share, value-based principles.  
31    2. The department shall update and submit a financial model,  
32 including fee schedule, revenue and expense projections, and a  
33 budget, to the executive committee and the board for approval  
34 on an annual basis.  
35    Sec. 11. NEW SECTION. 135.156B Iowa health information

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1 network — duties of the department.

2 The department shall do all of the following:

3 1. Develop, implement, and enforce the following, as  
4 approved by the board:

5 a. Strategic, operational, and business and financial  
6 sustainability plans for the Iowa health information network.

7 b. Standards, requirements, policies, and procedures for  
8 access to and use, secondary use, and privacy and security  
9 of health information exchanged through the Iowa health  
10 information network, consistent with applicable federal and  
11 state standards and laws.

12 c. Rules, policies, and procedures for monitoring  
13 participant usage of the Iowa health information network and  
14 enforcing compliance with applicable standards, requirements,  
15 policies, rules, and procedures.

16 d. Policies and procedures for administering the  
17 infrastructure, technology, and associated professional  
18 services required for operation of the Iowa health information  
19 network and the provision of services through the Iowa health  
20 information network.

21 e. An annual budget and fiscal report for the business and  
22 technical operations of the Iowa health information network  
23 and an annual report for the Iowa health information network  
24 and the services provided through the Iowa health information  
25 network.

26 2. Provide human resources, budgeting, project and activity  
27 coordination, and related management functions to the Iowa  
28 health information network and the services provided through  
29 the Iowa health information network.

30 3. Enter into participation agreements with participants in  
31 the Iowa health information network.

32 4. Collect participant fees, record receipts and approvals  
33 of payments, and file required financial reports.

34 5. Apply for, acquire by gift or purchase, and hold,  
35 dispense, or dispose of funds and real or personal property



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1 from any person, governmental entity, or organization in  
2 the exercise of its powers or performance of its duties in  
3 accordance with this division.

4 6. Select and contract with vendors of goods and services in  
5 compliance with all applicable state and federal procurement  
6 laws and regulations.

7 7. Work to align interstate and intrastate interoperability  
8 standards in accordance with national health information  
9 exchange standards.

10 8. Execute all instruments necessary or incidental to the  
11 performance of its duties and the execution of its powers under  
12 this division.

13 Sec. 12. NEW SECTION. 135.156C Iowa health information  
14 network fund.

15 1. The Iowa health information network fund is created as a  
16 separate fund within the state treasury under the control of  
17 the board. Revenues, donations, gifts, interest, participant  
18 fees, and other moneys received or generated relative to the  
19 operation and administration of the Iowa health information  
20 network shall be deposited in the fund.

21 2. Moneys in the fund are appropriated to and shall be  
22 expended by the department only for activities and operations  
23 suitable to the performance of the department's duties,  
24 subject to executive committee review and board approval.  
25 Disbursements may be made from the fund for purposes related  
26 to the administration, management, operations, functions,  
27 activities, or sustainability of the Iowa health information  
28 network.

29 3. Notwithstanding section 12C.7, subsection 2, earnings  
30 or interest on moneys deposited in the fund shall be credited  
31 to the fund. Moneys in the fund at the end of each fiscal year  
32 shall not revert to another fund but shall remain in the fund  
33 for expenditure in subsequent fiscal years.

34 4. The moneys in the fund shall be subject to financial and  
35 compliance audits by the auditor of state.



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1     Sec. 13. NEW SECTION. 135.156D **Technical infrastructure.**

2     1. The Iowa health information network shall provide a  
3 mechanism to facilitate and support the secure electronic  
4 exchange of health information between participants.

5     2. The Iowa health information network shall not function as  
6 a central repository of all health information.

7     3. The Iowa health information network shall provide a  
8 mechanism for participants without an electronic health records  
9 system to access health information from the Iowa health  
10 information network.

11    Sec. 14. NEW SECTION. 135.156E **Legal and policy.**

12    1. Upon approval from the board, the department shall  
13 implement appropriate security standards, policies, and  
14 procedures to protect the transmission and receipt of  
15 protected health information exchanged through the Iowa health  
16 information network, which shall, at a minimum, comply with the  
17 Health Insurance Portability and Accountability Act security  
18 rule pursuant to 45 C.F.R. pt. 164, subpt. C, and shall reflect  
19 all of the following:

20    a. Include authorization controls, including the  
21 responsibility to authorize, maintain, and terminate a  
22 participant's use of the Iowa health information network.

23    b. Require authentication controls to verify the identify  
24 and role of the participant using the Iowa health information  
25 network.

26    c. Include role-based access controls to restrict  
27 functionality and information available through the Iowa health  
28 information network.

29    d. Include a secure and traceable electronic audit system  
30 to document and monitor the sender and the recipient of health  
31 information exchanged through the Iowa health information  
32 network.

33    e. Require standard participation agreements which  
34 define the minimum privacy and security obligations of all  
35 participants using the Iowa health information network and



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1 services available through the Iowa health information network.

2     *f.* Include controls over access to and the collection,  
3 organization, and maintenance of records and data for  
4 purposes of research or population health that protect the  
5 confidentiality of consumers who are the subject of the health  
6 information.

7     2. A patient shall have the opportunity to decline exchange  
8 of the patient's health information through the Iowa health  
9 information network. A patient shall not be denied care or  
10 treatment for declining to exchange the patient's health  
11 information, in whole or in part, through the Iowa health  
12 information network. The board shall provide by rule the means  
13 and process by which patients may decline participation. The  
14 means and process utilized under the rules shall minimize the  
15 burden on patients and health care professionals.

16     3. Unless otherwise authorized by law or rule, a patient's  
17 decision to decline participation means that none of the  
18 patient's health information shall be accessible through the  
19 record locator service function of the Iowa health information  
20 network. A patient's decision to decline having health  
21 information shared through the record locator service function  
22 shall not limit a health care professional with whom the  
23 patient has or is considering a treatment relationship from  
24 sharing health information concerning the patient through  
25 the secure messaging function of the Iowa health information  
26 network.

27     4. A patient who declines participation in the Iowa health  
28 information network may later decide to have health information  
29 shared through the Iowa health information network. A patient  
30 who is participating in the Iowa health information network may  
31 later decline participation in the network.

32     5. A participant shall not release or use protected health  
33 information exchanged through the Iowa health information  
34 network for purposes unrelated to prevention, treatment,  
35 payment, or health care operations unless otherwise authorized

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1 or required by law. Participants shall limit the use and  
2 disclosure of protected health information to the minimum  
3 amount required to accomplish the intended purpose of the use  
4 or request, in compliance with the Health Insurance Portability  
5 and Accountability Act and other applicable federal law. Use  
6 or distribution of the information for a marketing purpose, as  
7 defined by the Health Insurance Portability and Accountability  
8 Act, is strictly prohibited.

9 6. The department and all persons using the Iowa health  
10 information network are individually responsible for following  
11 breach notification policies as provided by the Health  
12 Insurance Portability and Accountability Act.

13 7. A participant shall not be compelled by subpoena, court  
14 order, or other process of law to access health information  
15 through the Iowa health information network in order to gather  
16 records or information not created by the participant.

17 8. All participants exchanging health information and data  
18 through the Iowa health information network shall grant to  
19 other participants of the network a nonexclusive license to  
20 retrieve and use that information in accordance with applicable  
21 state and federal laws, and the policies, standards, and rules  
22 established by the board.

23 9. The board shall establish by rule the procedures for a  
24 patient who is the subject of health information to do all of  
25 the following:

26 a. Receive notice of a violation of the confidentiality  
27 provisions required under this division.

28 b. Upon request to the department, view an audit report  
29 created under this division for the purpose of monitoring  
30 access to the patient's health care information.

31 10. A health care professional who relies reasonably and  
32 in good faith upon any health information provided through  
33 the Iowa health information network in treatment of a patient  
34 who is the subject of the health information shall be immune  
35 from criminal or civil liability arising from any damages

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1 caused by such reasonable, good-faith reliance. Such immunity  
2 shall not apply to acts or omissions constituting negligence,  
3 recklessness, or intentional misconduct.

4 11. A participant that has disclosed health information  
5 through the Iowa health information network in compliance with  
6 applicable law and the standards, requirements, policies,  
7 procedures, and agreements of the network shall not be subject  
8 to criminal or civil liability for the use or disclosure of the  
9 health information by another participant.

10 12. Notwithstanding chapter 22, the following records shall  
11 be kept confidential, unless otherwise ordered by a court or  
12 consented to by the patient or by a person duly authorized to  
13 release such information:

14 a. The protected health information contained in, stored in,  
15 submitted to, transferred or exchanged by, or released from the  
16 Iowa health information network.

17 b. Any protected health information in the possession of  
18 the department due to its administration of the Iowa health  
19 information network.

20 13. Unless otherwise provided in this division, when using  
21 the Iowa health information network for the purpose of patient  
22 treatment, a health care professional is exempt from any other  
23 state law that is more restrictive than the Health Insurance  
24 Portability and Accountability Act that would otherwise prevent  
25 or hinder the exchange of patient information by the patient's  
26 health care professionals.

27 Sec. 15. NEW SECTION. 135.156F Governance review.

28 1. The governance structure as provided in this division  
29 consisting of the department acting on behalf of the board  
30 subject to executive committee review and board approval shall  
31 continue during the term of the state health information  
32 exchange cooperative agreement between the department and the  
33 office of the national coordinator for health information  
34 technology to address the development of standards, policies,  
35 and procedures; dissemination of interoperability standards;

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1 the installation, testing, and operation of the Iowa health  
2 information network infrastructure; and the evolution of Iowa  
3 health information network services to improve patient care for  
4 the population.

5 2. During the final year of the term of the cooperative  
6 agreement, the executive committee and the department shall  
7 review the governance structure, operations of the Iowa  
8 health information network, and the business and financial  
9 sustainability plan and make recommendations to the board  
10 regarding the future governance of the Iowa health information  
11 network.

12 Sec. 16. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
13 of immediate importance, takes effect upon enactment.

14 EXPLANATION

15 This bill provides for the creation of a statewide Iowa  
16 health information network (network). The bill provides  
17 definitions used in the bill. The bill provides findings and  
18 intent for the network, describing the importance of health  
19 information technology in transforming the delivery of health  
20 and medical care in the state and across the nation and in  
21 improving health care quality and the overall health of the  
22 population, increasing efficiencies in administrative health  
23 care, reducing unnecessary health care costs, and preventing  
24 medical errors. The network is to provide for the secure  
25 electronic sharing of health information. The bill provides  
26 that it is the intent of the general assembly to establish  
27 a statewide Iowa health information network, which is not  
28 to constitute a health benefit network or health insurance  
29 network; and is not to preclude the formation and operation  
30 of regional, population-specific, or local health information  
31 networks or their participation in the statewide network.

32 The bill provides that the state board of health (board),  
33 with the support of the department of public health and the  
34 advice of the existing electronic health information executive  
35 committee and advisory council, is to establish and annually

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1 review and update a business and financial sustainability  
2 plan for the network. The plan shall include fees to be paid  
3 by participants who access and use the network. The fee  
4 schedule is to be structured using fair share and value-based  
5 principles. The department is directed to update and submit  
6 a financial model to the executive committee and the board  
7 annually.

8 The bill specifies the duties of the department in the  
9 day-to-day operations of the Iowa health information network.

10 The bill provides for the creation of a separate Iowa  
11 health information network fund within the state treasury  
12 under the control of the board. All revenues, donations,  
13 gifts, interest, participant fees, and other moneys received or  
14 generated relative to the network are to be deposited in the  
15 fund. Moneys in the fund are appropriated to and are only to  
16 be expended by the department on activities and operations of  
17 the Iowa health information network, subject to board approval.  
18 Moneys in the fund at the end of each fiscal year remain in the  
19 fund. The fund is subject to financial and compliance audits  
20 by the auditor of state.

21 The bill provides for the technical infrastructure of  
22 the network. The network is to provide a mechanism to  
23 facilitate and support the secure exchange of electronic health  
24 information. The network is not to function as a central  
25 repository of all health information, and is to provide a means  
26 for participants without an electronic health record system to  
27 access health information through the network.

28 The bill includes provisions relating to the legal and  
29 policy aspects of the network. The bill authorizes the  
30 department, with approval from the board, to develop security  
31 standards, policies, and procedures to protect the transmission  
32 and receipt of individually identifiable health information  
33 shared through the network. These include: authorization  
34 and authentication controls, role-based access, a secure and  
35 traceable electronic audit system, use of participant and

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1 data-sharing agreements, and controls over access, collection,  
2 and maintenance of health information. These provisions  
3 specify a patient's choice of participation in the Iowa  
4 health information network, and the requirements for sharing  
5 information in accordance with all other laws, including the  
6 federal Health Insurance Portability and Accountability Act.  
7 The bill provides that the governance structure as provided  
8 in the bill consisting of the department acting on behalf  
9 of the board, subject to executive committee review and  
10 board approval, is to continue during the term of the state  
11 health information exchange cooperative agreement between  
12 the department and the office of the national coordinator  
13 for health information technology to address the development  
14 of standards, policies, and procedures; dissemination of  
15 interoperability standards; the installation, testing, and  
16 operation of the network infrastructure; and the evolution of  
17 health information network services to improve patient care  
18 for the population. During the final year of the term of the  
19 cooperative agreement (March 2014), the executive committee and  
20 the department are directed to review the governance structure,  
21 operations of the network, and the business and financial  
22 sustainability plan, and make recommendations to the board  
23 regarding the future governance of the network.  
24 The bill takes effect upon enactment.



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House Study Bill 562 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC HEALTH BILL)

A BILL FOR

1 An Act relating to programs and activities under the purview of  
2 the department of public health, providing for a penalty,  
3 and including effective and applicability date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

BURIAL TRANSIT PERMIT

Section 1. Section 144.32, Code 2011, is amended to read as follows:

**144.32 Burial transit permit.**

1. If a person other than a funeral director, medical examiner, or emergency medical service assumes custody of a dead body or fetus, the person shall secure a burial transit permit. To be valid, the burial transit permit ~~must~~ shall be issued by the county medical examiner, a funeral director, ~~or the county registrar of the county where the certificate of death or fetal death was filed~~ occurred, or the state registrar. The permit shall be issued only upon presentation of a completed certificate of death or fetal death. The permit shall be obtained prior to the removal of the body or fetus from the place of death and the permit shall accompany the body or fetus to the place of final disposition.

2. To transfer a dead body or fetus outside of this state, the funeral director who first assumes custody of the dead body or fetus shall obtain a burial transit permit prior to the transfer. The permit shall accompany the dead body or fetus to the place of final disposition.

3. A dead body or fetus brought into this state for final disposition shall be accompanied by a burial transit permit under the law of the state in which the death occurred.

4. A burial transit permit shall not be issued to a person other than a funeral director when the cause of death is or is suspected to be a communicable disease as defined by rule of the department.

DIVISION II

RADIOLOGICAL HEALTH

Sec. 2. Section 136C.3, subsection 2, Code 2011, is amended to read as follows:

2. Establish minimum training standards including continuing education requirements, and administer examinations

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1 and disciplinary procedures for operators of radiation machines  
2 and users of radioactive materials. A state of Iowa license  
3 to practice medicine, osteopathic medicine, chiropractic,  
4 podiatry, dentistry, dental hygiene, or veterinary medicine, or  
5 licensure as a physician assistant pursuant to chapter 148C, or  
6 certification by the dental board in dental radiography, ~~or by~~  
7 ~~the board of podiatry in podiatric radiography,~~ or enrollment  
8 in a program or course of study approved by the Iowa department  
9 of ~~public health~~ which includes the application of radiation to  
10 humans or animals satisfies the minimum training standards for  
11 operation of radiation machines only.

12 Sec. 3. Section 136C.3, subsection 5, Code 2011, is amended  
13 to read as follows:

14 5. Issue orders as necessary in connection with licensing  
15 and registration of radiation machines and radioactive  
16 materials and the operators or users thereof.

17 Sec. 4. Section 136C.8, Code 2011, is amended to read as  
18 follows:

19 **136C.8 Inspections.**

20 The department ~~shall~~ may inspect all radiation machines and  
21 radioactive materials located in this state, for the purpose of  
22 detecting, abating, or eliminating excessive radiation exposure  
23 hazards. The inspection shall include but shall not be limited  
24 to an evaluation of the ~~radiation machine or radioactive~~  
25 ~~material as well as the~~ immediate environment to ensure that  
26 in using the machines or materials all unnecessary hazards for  
27 patients, personnel, and other persons who may be exposed to  
28 radiation produced by the machine or materials are avoided.  
29 ~~The inspection shall also include an evaluation of electrical~~  
30 ~~hazards as well as the adequacy of mechanical supporting and~~  
31 ~~restraining devices.~~ All defects and deficiencies noted by  
32 the inspector shall be fully disclosed and discussed with the  
33 responsible persons at the time of inspection. The department  
34 shall establish rules prescribing operating procedures for  
35 radiation machines and radioactive materials which ensure

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1 minimum radiation exposure to patients, personnel, and other  
2 persons in the immediate environment.

3 Sec. 5. Section 136C.14, subsection 2, Code 2011, is amended  
4 to read as follows:

5 2. A person, other than a licensed professional, who  
6 operates a radiation machine or uses radioactive materials  
7 for medical treatment or diagnostic purposes shall ~~display~~  
8 make available upon request the credentials which indicate  
9 that person's qualification to operate the machine or use the  
10 materials ~~in the immediate vicinity of the machine or where~~  
11 ~~the materials are stored.~~ A person who owns or controls the  
12 machine or materials ~~is also responsible for the proper display~~  
13 ~~of credentials of those who operate the machine or use the~~  
14 ~~materials and~~ shall not employ a person to operate the machine  
15 or use the materials for medical treatment or diagnostic  
16 purposes except as provided in this section.

17 Sec. 6. Section 136D.2, subsections 4 and 5, Code 2011, are  
18 amended to read as follows:

19 4. "*Tanning device*" means any equipment that emits  
20 electromagnetic radiation with wavelengths in the air between  
21 200 and 400 nanometers and that is used for tanning of human  
22 skin, such as ~~sunlamps,~~ tanning booths, or tanning beds.  
23 ~~The term also includes any accompanying equipment such as~~  
24 ~~protective eyewear, timers, and handrails.~~

25 5. "*Tanning facility*" means ~~a place that provides access~~  
26 ~~to tanning devices for compensation~~ location, place, area,  
27 structure, or business, or a part thereof, which provides  
28 access to a tanning device for compensation. "*Tanning facility*"  
29 may include but is not limited to a tanning salon, health club,  
30 apartment, and condominium.

31 Sec. 7. Section 136D.8, subsection 2, Code 2011, is amended  
32 by striking the subsection.

33 Sec. 8. NEW SECTION. 136D.9 Penalties.

34 1. A person who operates or uses a tanning device or tanning  
35 facility in violation of this chapter or of any rule adopted



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1 pursuant to this chapter is guilty of a simple misdemeanor.  
2 2. In addition to criminal penalties, the department may  
3 impose a civil penalty not to exceed one thousand dollars  
4 on a person who violates a provision of this chapter, a  
5 rule adopted or order issued under this chapter, or a term,  
6 condition, or limitation of a registration certificate issued  
7 pursuant to this chapter, or who commits a violation for which  
8 a registration certificate may be revoked under rules issued  
9 pursuant to this chapter. Each day of continuing violation  
10 constitutes a separate offense in computing the civil penalty.  
11 3. The department shall notify a person of the intent to  
12 impose a civil penalty against the person. The department  
13 shall establish the notification process to include an  
14 opportunity for the person to respond in writing, within a  
15 reasonable time as the department shall establish by rule,  
16 regarding reasons why the civil penalty should not be imposed.  
17 4. The department may compromise, mitigate, or refund a  
18 civil penalty imposed under this section. A person upon whom  
19 a civil penalty is imposed may appeal the action pursuant to  
20 chapter 17A. The department shall remit moneys collected from  
21 civil penalties to the treasurer of the state who shall deposit  
22 the moneys in the general fund of the state.

23 DIVISION III

24 NURSING HOME ADMINISTRATORS

25 Sec. 9. Section 155.1, unnumbered paragraph 1, Code 2011,  
26 is amended to read as follows:

27 For the purposes of this chapter, ~~and as used herein:~~

28 Sec. 10. Section 155.3, subsections 2 and 3, Code 2011, are  
29 amended to read as follows:

30 2. The applicant has ~~satisfactorily completed a course of~~  
31 ~~instruction and training prescribed by the board, which course~~  
32 ~~shall be so designed as to content and so administered as to~~  
33 ~~present sufficient knowledge of the needs properly to be served~~  
34 ~~by nursing homes; knowledge of the laws governing the operation~~  
35 ~~of nursing homes and the protection of the interests of~~

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1 ~~patients therein; and knowledge of the elements of good nursing~~  
2 ~~home administration; or has~~ presented evidence satisfactory to  
3 the board of sufficient education, training, or experience in  
4 ~~the foregoing fields~~ to administer, supervise, and manage a  
5 nursing home.

6 3. The applicant has passed an examination ~~administered~~  
7 prescribed by the board ~~and designed to test for competence in~~  
8 ~~the subject matter referred to in subsection 2 of this section~~  
9 pursuant to section 147.34.

10 Sec. 11. Section 155.4, Code 2011, is amended to read as  
11 follows:

12 **155.4 Licensing function.**

13 The board shall license nursing home administrators in  
14 accordance with this chapter, chapter 147, and rules issued,  
15 ~~and from time to time revised, by it by the board.~~ A nursing  
16 home administrator's license shall not be transferable and,  
17 if not inactive, shall be valid until revoked pursuant to  
18 section 147.55 or voluntarily surrendered for cancellation  
19 ~~or suspended or revoked for violation of this chapter or any~~  
20 ~~other laws or regulations relating to the proper administration~~  
21 ~~and management of a nursing home. Any denial of issuance or~~  
22 ~~renewal, suspension, or revocation under any section of this~~  
23 ~~chapter shall be subject to judicial review in accordance with~~  
24 ~~the terms of the Iowa administrative procedure Act, chapter~~  
25 ~~17A.~~

26 Sec. 12. Section 155.5, Code 2011, is amended to read as  
27 follows:

28 **155.5 License fees.**

29 Each person licensed as a nursing home administrator shall  
30 be required to pay a license fee in an amount to be fixed by  
31 the board. The license shall expire in multiyear intervals  
32 determined by the board and be renewable ~~and~~ upon payment of  
33 ~~the license a renewal~~ fee. A person who fails to renew a  
34 license by the expiration date shall be allowed to do so within  
35 thirty days following its expiration, but the board may assess

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1 a reasonable penalty.

2 Sec. 13. Section 155.9, Code 2011, is amended to read as  
3 follows:

4 **155.9 Duties of the board.**

5 The In addition to the duties and responsibilities provided  
6 in chapters 147 and 272C, the board shall have the duty and  
7 responsibility to:

8 ~~1. Develop, impose, and enforce standards which must be~~  
9 ~~met by individuals in order to receive a license as a nursing~~  
10 ~~home administrator, which standards shall be designed to~~  
11 ~~insure that nursing home administrators will be individuals~~  
12 ~~who, by training or experience in the field of institutional~~  
13 ~~administration, are qualified to serve as nursing home~~  
14 ~~administrators.~~

15 ~~2. Develop and apply appropriate techniques, including~~  
16 ~~examination and investigations, for determining whether an~~  
17 ~~individual meets such standards. The board may administer~~  
18 ~~as many examinations per year as are necessary, but shall~~  
19 ~~administer at least one examination per year. Any written~~  
20 ~~examination may be given by representatives of the board.~~  
21 ~~Applicants who fail the examination once shall be allowed to~~  
22 ~~take the examination at the next scheduled time. Thereafter,~~  
23 ~~the applicant shall be allowed to take the examination at the~~  
24 ~~discretion of the board. An applicant who has failed the~~  
25 ~~examination may request in writing information from the board~~  
26 ~~concerning the applicant's examination grade and subject areas~~  
27 ~~or questions which the applicant failed to answer correctly,~~  
28 ~~except that if the board administers a uniform, standardized~~  
29 ~~examination, the board shall only be required to provide the~~  
30 ~~examination grade and such other information concerning the~~  
31 ~~applicant's examination results which are available to the~~  
32 ~~board.~~

33 ~~3. Issue licenses to individuals who, after application~~  
34 ~~of such techniques, are found to have met such standards; and~~  
35 ~~for cause and after due notice and hearing, revoke or suspend~~



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1 ~~licenses previously issued by such board in any case where~~  
2 ~~the individual holding such license is found to have failed~~  
3 ~~substantially to conform to the requirements of such standards.~~

4     ~~The board may also accept the voluntary surrender of such~~  
5 ~~license without necessity of a hearing. In adopt rules for~~  
6 ~~granting a provisional license to an administrator appointed~~  
7 ~~on a temporary basis by a nursing home's owner or owners in the~~  
8 ~~event of the inability of the regular administrator of a the~~  
9 ~~nursing home is unable to perform the administrator's duties~~  
10 ~~or through death or other cause the nursing home is without~~  
11 ~~a licensed administrator, a provisional administrator may be~~  
12 ~~appointed on a temporary basis by the nursing home owner or~~  
13 ~~owners to perform such duties for a period not to exceed one~~  
14 ~~year because of death or other cause. Such provisional license~~  
15 ~~shall allow the provisional licensee to perform the duties of~~  
16 ~~a nursing home administrator. An individual shall not hold a~~  
17 ~~provisional license for more than twelve total combined months,~~  
18 ~~and the board may revoke or otherwise discipline a provisional~~  
19 ~~licensee for cause after due notice and a hearing on a charge~~  
20 ~~or complaint filed with the board.~~

21     ~~4. Establish and carry out procedures designed to insure~~  
22 ~~that individuals licensed as nursing home administrators will,~~  
23 ~~during any period that they serve as such, comply with the~~  
24 ~~requirements of such standards.~~

25     ~~5. Receive, investigate, and take appropriate action with~~  
26 ~~respect to any charge or complaint filed with the board to~~  
27 ~~the effect that any individual licensed as a nursing home~~  
28 ~~administrator has failed to comply with the requirements~~  
29 ~~of such standards. Such appropriate action may include~~  
30 ~~revocation of a license, if necessary, or placing the licensee~~  
31 ~~on probation for a period not exceeding six months, and shall~~  
32 ~~be taken only for cause after due notice and a hearing on the~~  
33 ~~charge or complaint.~~

34     ~~6. Conduct a continuing study and investigation of nursing~~  
35 ~~homes, and administrators of nursing homes, in this state~~



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1 ~~with a view to the improvement of the standards imposed for~~  
2 ~~the licensing of such administrators and of procedures and~~  
3 ~~methods for the enforcement of such standards with respect to~~  
4 ~~administrators of nursing homes who have been licensed as such.~~  
5 7. ~~Conduct, or cause to be conducted, one or more courses of~~  
6 ~~instruction and training sufficient to meet the requirements~~  
7 ~~of this chapter, and make provisions for such courses and~~  
8 ~~their accessibility to residents of this state unless it finds~~  
9 ~~that there are, and approves, a sufficient number of courses,~~  
10 ~~which courses are conducted by others within this state. In~~  
11 ~~lieu thereof the board may approve courses conducted within~~  
12 ~~and without this state as sufficient to meet the education and~~  
13 ~~training requirements of this chapter.~~

14 Sec. 14. Section 155.10, Code 2011, is amended by striking  
15 the section and inserting in lieu thereof the following:

16 **155.10 Continuing education.**

17 Each person licensed as a nursing home administrator shall  
18 be required to complete continuing education as a condition of  
19 license renewal. Such continuing education requirements shall  
20 be determined by the board.

21 Sec. 15. Section 155.14, Code 2011, is amended to read as  
22 follows:

23 **155.14 Applications.**

24 Applications for licensure and for license renewal shall be  
25 on forms in the format prescribed and furnished by the board  
26 ~~and shall not contain a recent photograph of the applicant. An~~  
27 ~~applicant shall not be ineligible for licensure because of age,~~  
28 ~~citizenship, sex, race, religion, marital status or national~~  
29 ~~origin although the application may require citizenship~~  
30 ~~information. The board may consider the past felony record of~~  
31 ~~an applicant only if the felony conviction relates directly~~  
32 ~~to the practice of nursing home administration. Character~~  
33 ~~references may be required, but shall not be obtained from~~  
34 ~~licensed nursing home administrators.~~

35 Sec. 16. NEW SECTION. **155.19 Voluntary surrender.**

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1 The board may accept the voluntary surrender of a license if  
2 accompanied by a written statement of intention. The voluntary  
3 surrender, when accepted, shall have the same force and effect  
4 as an order of revocation.

5 Sec. 17. REPEAL. Sections 155.2, 155.15, and 155.16, Code  
6 2011, are repealed.

7 DIVISION IV

8 HEARING AID DISPENSERS

9 Sec. 18. Section 154A.7, Code 2011, is amended to read as  
10 follows:

11 **154A.7 ~~Meetings and expenses~~ Board meetings.**

12 ~~The members of the board shall receive actual expenses~~  
13 ~~incurred in the discharge of their duties within the limits of~~  
14 ~~funds appropriated to the board. Each member of the board may~~  
15 ~~also be eligible to receive compensation as provided in section~~

16 ~~7E.6.~~ The board shall meet at least one time per year at the  
17 seat of government and may hold additional meetings as deemed  
18 necessary. Additional meetings shall be held at the call of  
19 the chairperson or a majority of the members of the board.

20 ~~At any meeting of the board, a majority of the members shall~~  
21 ~~constitute a quorum.~~

22 Sec. 19. Section 154A.10, Code 2011, is amended to read as  
23 follows:

24 **154A.10 Issuance of licenses.**

25 ~~After January 1, 1975, an~~ An applicant may obtain a license,  
26 if the applicant:

27 1. Successfully passes the qualifying examination  
28 prescribed in section 154A.12.

29 2. Is free of contagious or infectious disease.

30 3. Pays the necessary fees set by the board ~~pursuant to~~  
31 ~~section 154A.17.~~

32 Sec. 20. Section 154A.12, subsection 1, paragraph a, Code  
33 2011, is amended to read as follows:

34 ~~a. Written tests~~ Evidence of knowledge in areas such as  
35 physics of sound, anatomy and physiology of hearing, and the



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1 function of hearing aids, as these areas pertain to the fitting  
2 or selection and sale of hearing aids.

3 Sec. 21. Section 154A.13, Code 2011, is amended to read as  
4 follows:

5 **154A.13 Temporary permit.**

6 A person who has not been ~~employed~~ licensed as a hearing  
7 aid dispenser ~~prior to January 1, 1975,~~ may obtain a temporary  
8 permit from the department upon completion of the application  
9 accompanied by the written verification of employment from a  
10 licensed hearing aid dispenser. The department shall issue a  
11 temporary permit for one year which shall not be renewed or  
12 reissued. The fee for issuance of the temporary permit shall  
13 be set by the board ~~pursuant to section 154A.17 in accordance~~  
14 with the provisions for establishment of fees in section  
15 147.80. The temporary permit entitles an applicant to engage  
16 in the fitting or selection and sale of hearing aids under the  
17 supervision of a person holding a valid license.

18 Sec. 22. Section 154A.23, Code 2011, is amended to read as  
19 follows:

20 **154A.23 Complaints Disciplinary orders — attorney general.**

21 ~~Any person wishing to make a complaint against a licensee~~  
22 ~~or holder of a temporary permit shall file a written statement~~  
23 ~~with the board within twelve months from the date of the action~~  
24 ~~upon which the complaint is based. If the board determines~~  
25 ~~that the complaint alleges facts which, if proven, would be~~  
26 ~~cause for the suspension or revocation of the license of the~~  
27 ~~licensee or the permit of the holder of a temporary permit,~~  
28 ~~it shall make an order fixing a time and place for a hearing~~  
29 ~~and requiring the licensee or holder of a temporary permit~~  
30 ~~complained against to appear and defend. The order shall~~  
31 ~~contain a copy of the complaint, and the order and copy of~~  
32 ~~the complaint shall be served upon the licensee or holder~~  
33 ~~of a temporary permit at least twenty days before the date~~  
34 ~~set for hearing, either personally or as provided in section~~  
35 ~~154A.21. Continuance or adjournment of a hearing date may be~~

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1 ~~made for good cause. At the hearing the licensee or holder~~  
2 ~~of a temporary permit may be represented by counsel. The~~  
3 ~~licensee or holder of a temporary permit and the board may take~~  
4 ~~depositions in advance of hearing and after service of the~~  
5 ~~complaint, and either may compel the attendance of witnesses~~  
6 ~~by subpoenas issued by the board. The board shall issue such~~  
7 ~~subpoenas at the request of a licensee or holder of a temporary~~  
8 ~~permit. Either party taking depositions shall give at least~~  
9 ~~five days' written notice to the other party of the time and~~  
10 ~~place of such depositions, and the other party may attend, with~~  
11 ~~counsel, if desired, and cross-examine.~~

12 ~~If the board determines from the evidence and proofs~~  
13 ~~submitted that the licensee or holder of a temporary permit is~~  
14 ~~guilty of violating any of the provisions of this chapter, or~~  
15 ~~any of the regulations promulgated by the board pursuant to~~  
16 ~~this chapter, the department shall, within thirty days after~~  
17 ~~the hearing, issue an order refusing to issue or renew, or~~  
18 ~~revoking or suspending, as the case may be, the hearing aid~~  
19 ~~dispenser's license or temporary permit. The order shall~~  
20 ~~include the findings of fact and the conclusions of law made by~~  
21 ~~the board and counsel. A copy of the order shall be sent to the~~  
22 ~~licensee or holder of a temporary permit by registered mail.~~  
23 ~~The records of the department shall reflect the action taken~~  
24 ~~by the board on the charges, and the department shall preserve~~  
25 ~~a record of the proceedings in a manner similar to that used by~~  
26 ~~courts of record in this state.~~

27 ~~The final order of the board in the proceedings may be~~  
28 ~~appealed to the district court of the county where the licensee~~  
29 ~~or holder of a temporary permit resides, or in which the~~  
30 ~~licensed hearing aid dispenser's principal place of business~~  
31 ~~is located.~~

32 ~~The department shall send a copy of the complaint and~~  
33 ~~a copy of the board's final order to the attorney general~~  
34 ~~for purposes of information in the event the licensee or~~  
35 ~~holder of a temporary permit pursues a court appeal and for~~

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1 ~~consideration as to whether the violations are flagrant enough~~  
2 ~~to justify prosecution.~~ The board shall forward a copy of  
3 all final disciplinary orders, with associated complaints,  
4 to the attorney general for consideration for prosecution or  
5 enforcement when warranted. The attorney general and all  
6 county attorneys shall assist the board and the department in  
7 the enforcement of the provisions of this chapter.

8 Sec. 23. REPEAL. Sections 154A.2, 154A.3, 154A.4, 154A.5,  
9 154A.6, 154A.8, 154A.9, 154A.11, 154A.14, 154A.15, 154A.17, and  
10 154A.18, Code 2011, are repealed.

11 DIVISION V

12 LOCAL BOARDS OF HEALTH

13 Sec. 24. Section 135.1, subsection 6, Code 2011, is amended  
14 by striking the subsection.

15 Sec. 25. Section 137.112, Code 2011, is amended by adding  
16 the following new subsection:

17 NEW SUBSECTION. 4. This section does not apply to any  
18 district board of health or district health department in  
19 existence prior to July 1, 2010.

20 Sec. 26. Section 331.502, subsection 8, Code 2011, is  
21 amended by striking the subsection.

22 Sec. 27. REPEAL. Section 135.32, Code 2011, is repealed.

23 Sec. 28. EFFECTIVE UPON ENACTMENT. The following provision  
24 or provisions of this division of this Act, being deemed of  
25 immediate importance, take effect upon enactment:

26 1. The section of this Act amending section 137.112.

27 Sec. 29. RETROACTIVE APPLICABILITY. The following  
28 provision or provisions of this division of this Act apply  
29 retroactively to July 1, 2010:

30 1. The section of this Act amending section 137.112.

31 DIVISION VI

32 GOVERNOR'S COUNCIL ON PHYSICAL FITNESS AND NUTRITION

33 Sec. 30. NEW SECTION. 135.27A Governor's council on  
34 physical fitness and nutrition.

35 1. A governor's council on physical fitness and nutrition

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1 is established consisting of twelve members appointed by the  
2 governor who have expertise in physical activity, physical  
3 fitness, nutrition, and promoting healthy behaviors. At  
4 least one member shall be a representative of elementary  
5 and secondary physical education professionals, at least  
6 one member shall be a health care professional, at least  
7 one member shall be a registered dietician, at least one  
8 member shall be recommended by the department on aging, and  
9 at least one member shall be an active nutrition or fitness  
10 professional. In addition, at least one member shall be a  
11 member of a racial or ethnic minority. The governor shall  
12 select a chairperson for the council. Members shall serve  
13 terms of three years beginning and ending as provided in  
14 section 69.19. Appointments are subject to sections 69.16  
15 and 69.16A. Members are entitled to receive reimbursement for  
16 actual expenses incurred while engaged in the performance of  
17 official duties. A member of the council may also be eligible  
18 to receive compensation as provided in section 7E.6.

19 2. The council shall assist in developing a strategy for  
20 implementation of the statewide comprehensive plan developed  
21 by the existing statewide initiative to increase physical  
22 activity, improve physical fitness, improve nutrition, and  
23 promote healthy behaviors. The strategy shall include specific  
24 components relating to specific populations and settings  
25 including early childhood, educational, local community,  
26 worksite wellness, health care, and older Iowans.

27 3. The council shall assist the department in establishing  
28 and promoting a best practices internet site. The internet  
29 site shall provide examples of wellness best practices for  
30 individuals, communities, workplaces, and schools and shall  
31 include successful examples of both evidence-based and  
32 nonscientific programs as a resource.

33 4. The council shall provide oversight for the governor's  
34 physical fitness challenge. The governor's physical fitness  
35 challenge shall be administered by the department and shall

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1 provide for the establishment of partnerships with communities  
2 or school districts to offer the physical fitness challenge  
3 curriculum to elementary and secondary school students. The  
4 council shall develop the curriculum, including benchmarks and  
5 rewards, for advancing the school wellness policy through the  
6 challenge.

7 Sec. 31. RETROACTIVE APPLICABILITY. This division of this  
8 Act applies retroactively to January 1, 2012.

9 Sec. 32. EFFECTIVE UPON ENACTMENT. This division of this  
10 Act, being deemed of immediate importance, takes effect upon  
11 enactment.

12 DIVISION VII

13 HIV CONFIDENTIALITY

14 Sec. 33. Section 141A.9, Code Supplement 2011, is amended by  
15 adding the following new subsection:

16 NEW SUBSECTION. 8. Medical information secured pursuant  
17 to subsection 1 may be shared with other state or federal  
18 agencies, with employees or agents of the department, or with  
19 local units of government that have a need for the information  
20 in the performance of their duties related to HIV prevention,  
21 disease surveillance, or care of persons with HIV, only as  
22 necessary to administer the program for which the information  
23 is collected or to administer a program within the other  
24 agency. Confidential information transferred to other persons  
25 or entities under this subsection shall continue to maintain  
26 its confidential status and shall not be rereleased by the  
27 receiving person or entity.

28 DIVISION VIII

29 REPEAL OF REPORTING REQUIREMENTS

30 Sec. 34. REPEAL. Section 135.165, Code 2011, is repealed.

31 EXPLANATION

32 This bill relates to programs and activities under the  
33 purview of the department of public health (DPH).

34 Division I relates to the list of people who may issue  
35 a burial transit permit. The bill provides that the state

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1 registrar of vital statistics may issue a burial transit  
2 permit. The bill adds that a burial transit permit may not be  
3 issued until a completed certificate of death or fetal death is  
4 presented. The bill also states the county registrar of the  
5 county where the death or fetal death occurred, rather than  
6 where the certificate of death was filed, may issue a burial  
7 transit permit.

8 Division II relates to radiological health. The bill  
9 provides that a certification by the board of podiatry in  
10 podiatric radiography does not satisfy the minimum training  
11 standards and continuing education requirements for operation  
12 of radiation machines. The bill also provides that enrollment  
13 in a program of study approved by the DPH which includes  
14 application of radiation to animals satisfies the minimum  
15 training standards for operating radiation machines. This  
16 would allow veterinary students to practice without a permit  
17 while enrolled in a training program.

18 The bill allows the department to regulate the operators of  
19 radiation machines and users of radioactive material. The bill  
20 makes the department's inspection of all radiation machines  
21 and radioactive materials in the state permissive rather than  
22 mandatory. The bill provides the department is no longer  
23 required to evaluate the radiation machine or radioactive  
24 material, the electrical hazards, or the adequacy of mechanical  
25 supporting and restraining devices.

26 The bill amends Code section 136C.14 to state that a person  
27 other than a licensed professional who operates a radiation  
28 machine or uses radioactive materials for medical treatment  
29 or diagnostic purposes does not need to display his or her  
30 credentials, but the person must provide credentials upon  
31 request. The bill also provides that a person who owns or  
32 controls the machine is no longer responsible for the proper  
33 display of such credentials.

34 The bill amends the definitions for "tanning device" and  
35 "tanning facility". The bill eliminates language stating that

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1 "tanning device" includes accompanying equipment. The bill  
2 eliminates the current definition for a tanning facility and  
3 provides that a "tanning facility" is not only a place for  
4 providing access to tanning devices for compensation, but  
5 also includes a place, area, structure, or business, or any  
6 part thereof, that provides access to tanning devices for  
7 compensation. The bill specifies that a tanning facility may  
8 include but is not limited to a tanning salon, health club,  
9 apartment, or condominium.

10 The bill inserts a penalty section into Code chapter 136 and  
11 provides for the imposition of a civil penalty not to exceed  
12 \$1,000 on persons who violate a provision of the Code chapter,  
13 a rule or order issued pursuant to the Code chapter, or a term,  
14 condition, or limitation of a registration certificate issued  
15 under the Code chapter. A civil penalty could also be imposed  
16 on a person who commits a violation for which a registration  
17 certificate may be revoked under the rules issued pursuant  
18 to the Code chapter. Each day of a continuing violation  
19 constitutes a separate offense for purposes of computing the  
20 civil penalty. The department must establish a notification  
21 process which includes an opportunity for the person facing the  
22 civil penalty to respond in writing within a reasonable time  
23 as set by the department. A person upon whom a civil penalty  
24 is imposed may appeal pursuant to Code chapter 17A. The bill  
25 also allows the department to compromise, mitigate, or refund a  
26 civil penalty. The department must remit the penalty to the  
27 treasurer of state who shall deposit the money into the general  
28 fund of the state.

29 Division III relates to nursing home administrators. The  
30 bill eliminates certain provisions in the Code chapter that are  
31 duplicative or inconsistent with the provisions in Code chapter  
32 147, relating to health-related professions generally. The  
33 bill eliminates the requirement that an applicant for a nursing  
34 home administrator license satisfactorily complete a course of  
35 instruction and training that was designed and administered

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1 to present sufficient knowledge of the needs properly to be  
2 served by nursing homes, knowledge of the laws governing the  
3 operation of nursing homes and the protection of the interests  
4 of patients, and knowledge of the elements of good nursing home  
5 administration. The bill amends Code section 155.3 to state  
6 that the board of nursing home administrators prescribes the  
7 examination pursuant to Code section 147.34, which governs  
8 the examinations required for licensure for health care  
9 professions, rather than administering the exam that tests  
10 for competence in the needs properly to be served by nursing  
11 homes, laws governing the operation of nursing homes and the  
12 protection of the interests of patients, and the elements of  
13 good nursing home administration.

14 The bill adds that the board shall license nursing home  
15 administrators in accordance with the rules as well as Code  
16 chapters 147 and 155. The bill makes technical changes  
17 regarding the terminology of a licensee's voluntary or  
18 involuntary loss of license and refers to Code section 147.55  
19 for revocation of a nursing home administrator's license while  
20 eliminating language in Code section 155.4 subjecting any  
21 denial of issuance or renewal, suspension, or revocation under  
22 Code chapter 155 to the judicial review procedure under Code  
23 chapter 17A.

24 The bill makes technical changes to the licensing fees  
25 provision. The bill allows the board to determine the  
26 multiyear interval in which a license shall expire and allows  
27 for the license to be renewed upon payment of a renewal fee  
28 rather than a license fee.

29 The bill provides that the board has the general duties  
30 and responsibilities for health-related boards listed in Code  
31 chapters 147 and 272C and strikes the board's specific duties  
32 relating to standards to be met by individuals in order to  
33 receive licenses as nursing home administrators; techniques for  
34 determining whether an individual meets the required standards;  
35 the issuance of and disciplinary actions relating to licenses;

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1 and complaints against nursing home administrators. The bill  
2 removes language allowing the board to conduct a continuing  
3 study and investigation of nursing homes and administrators in  
4 the state to improve the standards. The bill strikes language  
5 allowing the board to conduct or cause to be conducted courses  
6 of instruction and training sufficient to meet the requirements  
7 of Code chapter 155.

8 The bill retains language in Code section 155.9 that allows  
9 the board to establish rules to grant a provisional license to  
10 an administrator, but makes technical changes. The bill allows  
11 the board to grant a provisional license to an administrator  
12 appointed on a temporary basis by a nursing home's owner  
13 if the regular administrator is unable to perform the  
14 administrator's duties or the nursing home is otherwise without  
15 an administrator for some other reason. The bill strikes a  
16 provision which states that an administrator appointed on a  
17 temporary basis could not perform the duties for a period which  
18 exceeds one year. The bill provides that a provisional license  
19 can be held for no more than 12 combined months and the board  
20 may revoke or otherwise discipline a person with a provisional  
21 license for cause after due notice and a hearing.

22 The bill strikes the language in Code section 155.10  
23 regarding renewal of licenses. Under the bill, Code chapter  
24 272C would control the renewal of licenses. The bill provides  
25 that a licensed nursing home administrator must complete  
26 continuing education as a condition precedent for a license  
27 renewal. The bill states the board will determine the  
28 continuing education requirements.

29 The bill provides that applications for license renewal  
30 shall be prescribed by the board. Under the amended language  
31 of Code section 155.14, the bill states the board is not  
32 required to furnish forms for licensure or license renewal.  
33 The bill strikes the language regarding the characteristics the  
34 board may consider when receiving an applicant's application.  
35 Under the bill the characteristics to consider for eligibility

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1 would be controlled by Code section 147.3.

2 The bill also adds a section to Code chapter 155 regarding a  
3 licensee's voluntary surrender of a license. The bill states  
4 the board may accept a voluntary surrender if it is accompanied  
5 by a written statement of intention. The voluntary surrender  
6 will have the same force and effect as revocation after the  
7 surrender is accepted.

8 The bill repeals the language regarding the composition  
9 of the board of nursing home administrators. The board's  
10 composition is governed by Code sections 147.12 through 147.20  
11 and 147.82. The bill repeals the language in section 155.15  
12 regarding the fees for examination, licensure, and renewal of  
13 licensure. The language in Code section 147.80 would control.  
14 The bill also repeals language in Code section 155.16 regarding  
15 the public members of the board, making the language in Code  
16 section 147.21 applicable.

17 Division IV relates to hearing aid dispensers. The bill  
18 eliminates certain provisions within Code chapter 154A as Code  
19 chapter 147 regarding health-related professions now governs  
20 the board of hearing aid dispensers in its provisions.

21 The bill eliminates language in Code section 154A.7  
22 regarding board members' expenses for discharging duties and  
23 members' eligibility to receive compensation provided in Code  
24 section 7E.6. The bill also eliminates language in Code  
25 section 154A.7 regarding a quorum. The language on board  
26 members' expenses and compensation is provided in Code section  
27 147.24 and the language on a board quorum is provided by Code  
28 section 147.14(2).

29 The bill eliminates language regarding the date on which an  
30 applicant may obtain a license and deletes the reference to the  
31 fee provision in Code section 154A.17.

32 The bill amends Code section 154A.12 regarding the scope of  
33 examination to require evidence, rather than a written test, of  
34 the applicant's knowledge in areas such as physics of sound,  
35 anatomy and physiology of hearing, and function of hearing

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1 aids.

2 The bill amends Code section 154A.13 regarding temporary  
3 permits and states that only an individual who has not been  
4 licensed as a hearing aid dispenser, rather than a person who  
5 has not been employed as a hearing aid dispenser, may obtain  
6 a temporary permit. The bill also states that a fee for a  
7 temporary permit will be set by the board pursuant to Code  
8 section 147.80 rather than Code section 154A.17, which is  
9 repealed under this bill.

10 The bill removes language from Code chapter 154A regarding  
11 the process for filing a complaint against a licensee or holder  
12 of a temporary permit, the hearing process, the required  
13 elements of a board's order, the notice of the order, and the  
14 right to appeal the board's final order. Under the bill,  
15 complaints would be governed by Code chapters 17A, 147, and  
16 272C. The bill amends Code section 154A.23 to allow the board  
17 to forward a copy of final disciplinary orders along with  
18 the complaint to the attorney general for consideration for  
19 prosecution or enforcement when warranted.

20 The bill repeals Code section 154A.2 regarding the  
21 establishment of the board; Code section 154A.3 regarding  
22 terms of board members; Code section 154A.4 regarding duties  
23 of the board; Code section 154A.5 regarding public members  
24 of the board; Code section 154A.6, regarding disclosure of  
25 confidential information (the governing provision in Code  
26 section 147.21(2) does not contain a provision which prohibits  
27 the disclosure of an applicant's criminal history); Code  
28 section 154A.8 regarding duties of the board; Code section  
29 154A.9 regarding applications for licensure; Code section  
30 154A.11 regarding examinations (however, the governing  
31 provision in Code section 147.34 does not require examinations  
32 to occur at least once a year and does not require the identity  
33 of the applicant to be concealed until after the grading  
34 of the exam); Code section 154A.14 concerning reciprocity;  
35 Code section 154A.15 concerning license renewal (however,

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1 Code section 147.10 does not require the department to mail  
2 notice of the expiration date of a license at least a month  
3 in advance); and Code section 154A.17 regarding fees. Code  
4 section 154A.18, regarding the display of the license is  
5 also repealed, however, Code sections 147.6 and 147.7 do not  
6 prohibit a person from engaging in business as a hearing aid  
7 dispenser or displaying a sign or advertising to be a hearing  
8 aid dispenser without a valid license nor do the Code sections  
9 require the license to be conspicuously posted in the person's  
10 primary location of practice. The Code sections instead state  
11 that a license is presumptive evidence of the right to practice  
12 and a board may require every person licensed by the board to  
13 publicly display the license and evidence of current renewal.

14 Division V relates to local boards of health. The bill  
15 strikes the definition of "sanitation officer". The bill  
16 states that the district public health fund budget provisions  
17 do not apply to a district board of health or district health  
18 department in existence prior to July 1, 2010. The bill  
19 repeals the department's duty to publish and distribute  
20 its rules to the counties. The bill provides an immediate  
21 effective date and retroactive date for the application of  
22 the provisions of the health fund budget only to the district  
23 boards of health or district health departments in existence  
24 prior to July 1, 2010.

25 Division VI relates to the governor's council on physical  
26 fitness and nutrition. The bill reinstates the governor's  
27 council on physical fitness and nutrition, which was repealed  
28 by 2011 Iowa Acts, chapter 129, section 94. The bill provides  
29 an immediate effective date for this division and retroactivity  
30 to January 1, 2012.

31 Division VII relates to HIV confidentiality. The bill  
32 adds a new provision allowing medical information secured  
33 pursuant to Code section 141A.9 to be shared with other state  
34 or federal agencies, employees or agents of the department, or  
35 with local units of government. The information may be shared

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1 when the persons or entities have a need for the information  
2 in the performance of their duties related to HIV prevention,  
3 disease surveillance, or care of persons with HIV and only as  
4 necessary to administer the program for which the information  
5 is collected or to administer a program within the other  
6 agency. The confidential information transferred maintains its  
7 confidential status and the receiving entity may not rerelease  
8 the information.

9 Division VIII relates to reporting requirements for  
10 hospitals and nursing facilities. The bill repeals Code  
11 section 135.165, which requires hospitals and nursing  
12 facilities that are recognized by the Internal Revenue Code as  
13 a nonprofit organization or entity to annually submit a copy  
14 of the internal revenue service form 990 to the department of  
15 public health and the legislative services agency.



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**Senate File 2059 - Introduced**

SENATE FILE 2059  
BY DOTZLER

**A BILL FOR**

1 An Act authorizing lottery games to benefit anti-littering and  
2 beautification programs.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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ec/nh

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S.F. 2059

1 Section 1. NEW SECTION. 99G.9B Limited series of lottery  
2 games to benefit anti-littering and beautification programs.

3 The chief executive officer, in consultation with the board,  
4 shall develop and conduct one additional instant scratch and  
5 one additional pull-tab lottery game annually to provide moneys  
6 for the benefit of anti-littering and beautification programs.  
7 The moneys received from the sale of tickets for each lottery  
8 game shall be deposited in a special account in the lottery  
9 fund. Notwithstanding section 99G.39, after payment of the  
10 prizes, the remaining moneys shall be transferred to the keep  
11 Iowa beautiful fund established pursuant to section 314.28.

EXPLANATION

13 This bill provides that the chief executive officer of the  
14 lottery authority shall develop and conduct one additional  
15 instant scratch and one additional pull-tab lottery game  
16 annually for the benefit of anti-littering and beautification  
17 programs. Moneys received from the games, less prizes, shall  
18 be transferred to the keep Iowa beautiful fund established  
19 pursuant to Code section 314.28. Moneys in the fund are to be  
20 used for providing financial assistance to organizations for  
21 litter prevention, improving waste management and recycling  
22 efforts, or a beautification project.



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**Senate File 2060 - Introduced**

SENATE FILE 2060  
BY BOLKCOM

(COMPANION TO 5527HH BY  
HEDDENS)

**A BILL FOR**

1 An Act relating to services provided by assisted living  
2 programs and requiring the adoption of rules.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2060

1 Section 1. Section 231C.1, subsection 2, paragraph b, Code  
2 2011, is amended to read as follows:

3 *b.* To establish standards for assisted living programs that  
4 allow flexibility in design which promotes a social model of  
5 service delivery by focusing on independence, individual needs  
6 and desires, and consumer-driven quality of service, and that  
7 provide consumer protections to ensure program transparency,  
8 oversight, and accountability.

9 Sec. 2. Section 231C.1, subsection 3, Code 2011, is amended  
10 to read as follows:

11 3. It is the intent of the general assembly that the  
12 department promote a social model for assisted living programs,  
13 provide consistent standards and oversight to ensure protection  
14 of consumers, and utilize a consultative process to assist with  
15 compliance by assisted living programs.

16 Sec. 3. Section 231C.2, subsection 2, Code Supplement 2011,  
17 is amended to read as follows:

18 2. *a.* "Assisted living" means the provision to three or  
19 more tenants of a social model of housing with in a physical  
20 structure which provides a homelike environment and balances  
21 individual privacy with the benefits of social interaction and  
22 provides associated services which may.

23 *b.* The social model shall provide an environment that  
24 supports each tenant in maximizing the tenant's highest  
25 practicable level of well-being through individualized,  
26 stimulating, and purposeful activities, connections to and  
27 interaction with the outside community, and other interventions  
28 that assist a tenant in maintaining optimal independence while  
29 delaying further decline from any existing health, cognitive,  
30 mental health, or functional condition.

31 *c.* The services offered shall include but are not limited to  
32 health-related the following:

33 (1) Health-related care, or personal care, and assistance  
34 with instrumental activities of daily living to three or more  
35 tenants in a physical structure which provides a homelike

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1 environment.

2     (2) ~~"Assisted living"~~ also includes The encouragement  
3 of family involvement, tenant self-direction, and tenant  
4 participation in decisions that emphasize choice, dignity,  
5 privacy, individuality, shared risk, and independence in a  
6 manner commensurate with the tenant's health, cognitive,  
7 mental health, and functional status. ~~"Assisted living"~~  
8 ~~includes the provision of housing and assistance with~~  
9 ~~instrumental activities of daily living only if personal care~~  
10 ~~or health-related care is also included.~~ ~~"Assisted living"~~  
11 includes

12     (3) Access to awake staff twenty-four hours per day  
13 ~~response staff~~ to meet a tenant's scheduled and unscheduled  
14 or unpredictable needs commensurate with the tenant's health,  
15 cognitive, mental health, and functional status, in a manner  
16 that promotes maximum dignity and independence and provides  
17 supervision, safety, and security.

18     d. Services may include assistance with instrumental  
19 activities of daily living.

20     Sec. 4. Section 231C.3, subsection 1, paragraphs c and d,  
21 Code 2011, are amended to read as follows:

22     c. Standards for tenant evaluation or assessment, which  
23 evaluate each prospective tenant's health, cognitive, mental  
24 health, and functional status prior to the tenant's signing the  
25 occupancy agreement and taking occupancy of a dwelling unit  
26 in order to determine the tenant's eligibility for a program,  
27 including whether the personal or health-related services are  
28 available. The standards shall provide that each program shall  
29 use one or two of the standard assessment tools selected by the  
30 department.

31     d. Standards for tenant service plans, which may vary in  
32 accordance with the nature of the services provided or the  
33 status of the a tenant. The standards shall provide that daily  
34 activities based on a tenant's abilities, personal interests,  
35 and individual assessment shall be planned for a tenant who

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1 is unable to plan the tenant's own activities. The standards  
2 shall state that a service plan must include the level of staff  
3 needed to provide personal or health-related care. When a  
4 tenant needs personal care or health-related care, the service  
5 plan shall be updated within thirty days of occupancy and as  
6 needed with significant change, but not less than annually.

7 ~~d.~~ e. Provisions for granting short-term waivers for  
8 tenants who exceed occupancy criteria.

9 Sec. 5. Section 231C.3, subsection 1, Code 2011, is amended  
10 by adding the following new paragraphs:

11 NEW PARAGRAPH. f. Standards for food service at a program  
12 that ensure that the nutritional needs of each tenant is met as  
13 reflected in the tenant's service plan. The standards shall  
14 state that the program shall provide, at minimum, one hot meal  
15 per day to all tenants and up to three meals per day for tenants  
16 who require the food service.

17 NEW PARAGRAPH. g. Standards for employment of a program  
18 manager. The standards shall provide that programs employing a  
19 new program manager on and after January 1, 2013, shall require  
20 the manager to have, at minimum, a combination of three years  
21 of study or experience related to older adults and to complete,  
22 within six months of initial employment as a program manager,  
23 an assisted living management class whose curriculum includes  
24 at least six hours of training specifically related to Iowa  
25 rules and laws on assisted living programs.

26 Sec. 6. Section 231C.5, subsection 2, paragraph a, Code  
27 Supplement 2011, is amended to read as follows:

28 a. A description of all fees, charges, and rates describing  
29 tenancy and basic services covered, and any additional and  
30 optional services and their related costs. The occupancy  
31 agreement shall also include the circumstances under which  
32 fees, charges, or rates are subject to change, and the process  
33 by which such change is made including but not limited to a  
34 provision of timely notice of such change.

35 Sec. 7. Section 231C.5, subsection 2, Code Supplement 2011,

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1 is amended by adding the following new paragraph:

2 NEW PARAGRAPH. *q.* The specific type and level of services  
3 the program provides and the specific health, cognitive, mental  
4 health, or functional condition that, by law, prohibit initial  
5 occupancy or may necessitate subsequent transfer or involuntary  
6 transfer.

7 Sec. 8. RULES. The department of inspections and appeals  
8 shall adopt rules to implement the provisions of this Act.

9 Sec. 9. PRIOR PROGRAM MANAGER TRAINING. The training  
10 standards required by section 231C.3, subsection 1, paragraph  
11 "g", as enacted in this Act, shall provide that program  
12 managers who have completed similar training prior to January  
13 1, 2013, shall not be required to complete additional training  
14 to meet the requirement in section 231C.3, subsection 1,  
15 paragraph "g".

16 EXPLANATION

17 This bill amends Code sections related to assisted living  
18 programs. The bill adds that the purpose of establishing an  
19 assisted living program includes providing consumer protections  
20 to ensure program transparency, oversight, and accountability.  
21 The bill provides that it is the intent of the general assembly  
22 that the department of inspections and appeals provide  
23 consistent standards and oversight to ensure protection of  
24 consumers of assisted living programs.

25 The bill amends the definition of "assisted living" to  
26 mean the provision of a social model of housing in a physical  
27 structure with services to three or more tenants. The physical  
28 structure must balance individual privacy with the benefits  
29 of social interaction. The bill provides that the social  
30 model must create an environment that supports the tenant in  
31 maximizing the highest practicable level of well-being that  
32 assists the tenant in maintaining optimal independence and  
33 delaying further decline in any existing health, cognitive,  
34 mental health, or functional condition.

35 The bill amends the definition of "assisted living" to

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1 include as required assisted living services, health-related  
2 care, the encouragement of family involvement, tenant  
3 self-direction, and tenant participation in a manner  
4 commensurate with the tenant's health, cognitive, mental  
5 health, and functional status, and access to awake staff 24  
6 hours per day to meet the tenant's needs commensurate with  
7 the tenant's health, cognitive, mental health, and functional  
8 status. The bill provides that assisted living services may  
9 include assistance with instrumental activities of daily  
10 living.

11 The bill requires the department of inspections and appeals  
12 (DIA) to establish rules regarding standards for tenant  
13 evaluation or assessment. The rules shall require that each  
14 prospective tenant's health, cognitive, mental health, and  
15 functional status be evaluated prior to the tenant's signing  
16 the occupancy agreement and taking occupancy of a dwelling  
17 unit. The evaluations must be completed using one or two of  
18 the standard assessment tools selected by the department.

19 The bill requires that the DIA's rules regarding tenant  
20 service plans provide that daily activities based on the  
21 tenant's abilities, personal interests, and individual  
22 assessment shall be planned for a tenant who is unable to  
23 plan the tenant's own activities. The rules regarding tenant  
24 service plans also must include the level of staff needed to  
25 provide care.

26 The bill requires the DIA to establish rules regarding  
27 standards for food service at an assisted living program to  
28 ensure that a program meets a tenant's nutritional needs.  
29 These standards shall require that the program, at minimum,  
30 provide one hot meal per day to all tenants and up to three  
31 meals per day for tenants requiring the service.

32 The bill requires the DIA to establish rules regarding  
33 standards for employment of program managers. The standards  
34 must require new program managers employed on or after  
35 January 1, 2013, to have a minimum of three years of study



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1 or experience related to older adults and to complete an  
2 assisted living management class within six months of initial  
3 employment as a program manager. A program manager does not  
4 need to complete additional training if the program manager has  
5 completed similar training prior to January 1, 2013.

6 The bill provides that a written occupancy agreement  
7 shall include the circumstances under which fees, charges, or  
8 rates are subject to change and the process for making the  
9 changes including a provision for timely notice. The bill  
10 also requires a written occupancy agreement to include the  
11 specific type and level of services the program provides and  
12 the specific health, cognitive, mental health, or functional  
13 conditions that prohibit initial occupancy or may necessitate  
14 subsequent transfer.

15 The bill requires the DIA to adopt rules to implement the  
16 bill.



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**Senate File 2061 - Introduced**

SENATE FILE 2061

BY ANDERSON

(COMPANION TO HSB 534)

**A BILL FOR**

1 An Act establishing regulations to permit access to surplus  
2 lines insurance in this state, and providing civil and  
3 criminal penalties, coordinating provisions, and repeals,  
4 and including effective date provisions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

SURPLUS LINES INSURANCE

Section 1. NEW SECTION. 515I.1 **Purpose.**

1. The purposes of this chapter are to do all of the following:

- a. Establish a system of regulation which will permit orderly access to surplus lines insurance in this state.
- b. Encourage admitted insurers to make new and innovative types of insurance available to consumers in this state.
- c. Protect persons seeking insurance in this state.
- d. Permit surplus lines insurance to be placed with reputable and financially sound nonadmitted insurers.
- e. Provide a system through which persons may independently procure surplus lines insurance.
- f. Protect revenues of this state.
- g. Foster a national system of regulation of surplus lines insurance by collaborating with other state insurance commissioners.
- h. Provide a system which subjects surplus lines insurance activities in this state to the jurisdiction of the insurance commissioner and state and federal courts in suits by or on behalf of the state.

2. This division shall be liberally construed to promote these purposes.

Sec. 2. NEW SECTION. 515I.2 **Definitions.**

As used in this chapter, unless the context otherwise requires:

- 1. "Admitted insurer" means an insurer licensed to do insurance business in this state.
- 2. "Affiliate" means, with respect to an insurer, any entity that controls, is controlled by, or is under common control with the insurer.
- 3. "Affiliated group" means any group of entities that are affiliates.
- 4. "Commercial insurance" means insurance for businesses or

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1 professionals.

2 5. "*Commissioner*" means the commissioner of insurance, or  
3 the commissioner's designees.

4 6. "*Control*" means either of the following:

5 a. That an entity directly or indirectly, or acting through  
6 one or more other persons, owns, controls, or has the power  
7 to vote twenty-five percent or more of any class of voting  
8 securities of another entity.

9 b. That an entity controls in any manner the election of a  
10 majority of the directors or trustees of another entity.

11 7. "*Eligible surplus lines insurer*" means a nonadmitted  
12 insurer that has filed an application with the commissioner  
13 and been approved for placement of surplus lines insurance and  
14 appears on the Iowa listing of nonadmitted companies.

15 8. "*Exempt commercial purchaser*" means any person purchasing  
16 commercial insurance that, at the time of placement, meets all  
17 of the following requirements:

18 a. The person employs or retains a qualified risk manager to  
19 negotiate insurance coverage.

20 b. The person has paid aggregate nationwide commercial  
21 property and casualty insurance premiums in excess of one  
22 hundred thousand dollars in the immediately preceding twelve  
23 months.

24 c. The person meets at least one of the following criteria:

25 (1) The person possesses a net worth in excess of twenty  
26 million dollars except that beginning on January 1, 2015, and  
27 on January 1 every five years thereafter, this amount shall be  
28 adjusted to reflect the percentage change in the consumer price  
29 index for all urban consumers for the most recent available  
30 five-year period published by the United States department of  
31 labor, bureau of labor statistics.

32 (2) The person generates annual revenues in excess of fifty  
33 million dollars except that beginning on January 1, 2015, and  
34 on January 1 every five years thereafter, this amount shall be  
35 adjusted to reflect the percentage change in the consumer price

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1 index for all urban consumers for the most recent available  
2 five-year period published by the United States department of  
3 labor, bureau of labor statistics.

4 (3) The person employs more than five hundred full-time or  
5 full-time equivalent employees per individual insured or is a  
6 member of an affiliated group employing more than one thousand  
7 employees in the aggregate.

8 (4) The person is a nonprofit organization or public entity  
9 generating annual budgeted expenditures of at least thirty  
10 million dollars except that beginning on January 1, 2015, and  
11 on January 1 every five years thereafter, this amount shall be  
12 adjusted to reflect the percentage change in the consumer price  
13 index for all urban consumers for the most recent available  
14 five-year period published by the United States department of  
15 labor, bureau of labor statistics.

16 (5) The person is a municipality with a population in excess  
17 of fifty thousand persons.

18 9. *"Home state"* means:

19 a. Except as provided in paragraph *"b"*, with respect to an  
20 insured either of the following:

21 (1) The state in which an insured maintains its principal  
22 place of business or, in the case of an individual, the  
23 individual's principal residence.

24 (2) If one hundred percent of the insured risk is located  
25 out of the state described in subparagraph (1), the state to  
26 which the greatest percentage of the insured's taxable premium  
27 for that insurance policy or contract is allocated.

28 b. If more than one insured from an affiliated group is a  
29 named insured on a single surplus lines insurance policy or  
30 contract, the home state, as determined pursuant to paragraph  
31 *"a"*, subparagraph (1), of the member of the affiliated group  
32 that has the largest percentage of premium attributed to it  
33 under such insurance policy or contract.

34 10. *"Independently procured insurance"* means insurance  
35 obtained by a person directly from a nonadmitted insurer.

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1 11. "*Insurer*" means the same as defined in section 507.1,  
2 subsection 2.

3 12. "*Nonadmitted insurer*" means an insurer not licensed to  
4 do insurance business in this state. "*Nonadmitted insurer*" does  
5 not include a risk retention group as defined in chapter 515E.

6 13. "*Person*" means the same as defined in section 507.1,  
7 subsection 2.

8 14. "*Placement*" or "*placed*" means that an eligible surplus  
9 lines insurer has accepted a premium and issued an insurance  
10 policy or contract for a particular risk.

11 15. "*Premium tax*" means the tax imposed by the state on  
12 a contract of insurance equal to the applicable percent, as  
13 provided in section 432.1.

14 16. "*Qualified risk manager*" means a person who meets all  
15 of the following requirements:

16 a. The person is an employee of, or third party consultant  
17 retained by a commercial insurance policyholder.

18 b. The person provides skilled services in loss prevention,  
19 loss reduction, or risk and insurance coverage analysis, and  
20 purchase of insurance.

21 c. The person meets one of the following requirements:

22 (1) The person has a bachelor's degree from an accredited  
23 college or university in risk management, business  
24 administration, finance, economics, or any other field  
25 determined by the commissioner to demonstrate minimum  
26 competence in risk management; and meets both of the following  
27 requirements:

28 (a) Has three years of experience in risk financing, claims  
29 administration, loss prevention, risk and insurance coverage  
30 analysis, or purchasing commercial lines of insurance.

31 (b) Has one of the following designations:

32 (i) Chartered property and casualty underwriter.

33 (ii) Associate in risk management.

34 (iii) Certified risk manager.

35 (iv) Risk and insurance management society fellow.

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1 (v) Any other designation, certification, or license  
2 determined by the commissioner to demonstrate minimum  
3 competency in risk management.

4 (2) The person has at least seven years of experience in  
5 risk financing, claims administration, loss prevention, risk  
6 and insurance coverage analysis, or purchasing commercial lines  
7 of insurance; and has any one of the designations specified in  
8 subparagraph (1), subparagraph division (b).

9 (3) The person has at least ten years of experience in risk  
10 financing, claims administration, loss prevention, risk and  
11 insurance coverage analysis, or purchasing commercial lines of  
12 insurance.

13 (4) The person has a graduate degree from an accredited  
14 college or university in risk management, business  
15 administration, finance, economics, or any other field  
16 determined by the commissioner to demonstrate minimum  
17 competence in risk management.

18 17. *"Surplus lines insurance"* means any property and  
19 casualty insurance in this state on properties, risks, or  
20 exposures, located or to be performed in this state, that is  
21 placed through a surplus lines insurance producer with an  
22 eligible surplus lines insurer. For purposes of this chapter  
23 only, *"surplus lines insurance"* also includes disability  
24 insurance that is in excess of policy limits available from an  
25 admitted insurer.

26 18. *"Surplus lines insurance producer"* means a person  
27 licensed pursuant to chapter 522B to sell, solicit, or  
28 negotiate surplus lines insurance.

29 Sec. 3. NEW SECTION. 515I.3 Placement of surplus lines  
30 insurance business with nonadmitted insurers.

31 1. Surplus lines insurance may be placed by a surplus lines  
32 insurance producer with a nonadmitted insurer only if all of  
33 the following requirements are met:

34 a. The proposed nonadmitted insurer is an eligible surplus  
35 lines insurer.

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1     *b.* The proposed nonadmitted insurer is authorized to write  
2 the type of insurance sought in this state in its domiciliary  
3 jurisdiction.

4     *c.* Unless otherwise exempt from this requirement, after a  
5 diligent search the full amount or type of insurance cannot be  
6 obtained from an admitted insurer.

7     *d.* All other requirements of this chapter are met.

8     2. *a.* In addition to the full amount of gross premiums  
9 charged by the nonadmitted insurer for the insurance on which  
10 a premium tax is imposed, a surplus lines insurance producer  
11 shall collect and pay to the state of Iowa the appropriate  
12 amount of premium tax as provided in section 432.1 for surplus  
13 lines insurance. The commissioner shall adopt rules to specify  
14 the use of credits or deductions that may be applied to the  
15 premium tax.

16    *b.* The tax on any portion of the premium unearned at the  
17 termination of the surplus lines insurance that has been  
18 credited by the state shall be returned to the policyholder  
19 directly by the surplus lines insurance producer. The surplus  
20 lines insurance producer is prohibited from rebating, for any  
21 reason, any part of the tax.

22    3. This section shall not apply to a person properly  
23 licensed as an insurance producer, who, for a fee and pursuant  
24 to a written agreement, is engaged solely to offer advice,  
25 counsel, opinion, or service to an insured with respect to  
26 the benefits, advantages, or disadvantages promised under  
27 any proposed or in-force policy of insurance if the person  
28 does not, directly or indirectly, participate in the sale,  
29 solicitation, or negotiation of insurance on behalf of the  
30 insured.

31    4. Insurance placed under this section shall be valid and  
32 enforceable as to all parties.

33    Sec. 4. NEW SECTION. 515I.4 Requirements for eligible  
34 surplus lines insurers.

35    1. When this state is the home state of the insured, a



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1 nonadmitted insurer shall not place any surplus lines insurance  
2 business in this state unless the insurer has been approved  
3 for such activity by the commissioner. A nonadmitted insurer  
4 seeking to qualify as an eligible surplus lines insurer shall  
5 submit a request to so qualify in a form and format as directed  
6 by the commissioner which demonstrates all of the following:  
7     a. Capital and surplus or its equivalent under the laws of  
8 the insurer's domiciliary jurisdiction which equals the greater  
9 of either of the following:  
10     (1) The minimum capital and surplus requirements under the  
11 laws of this state.  
12     (2) Fifteen million dollars.  
13     b. If the nonadmitted insurer is not domiciled in a state or  
14 territory of the United States, verification of the insurer's  
15 listing on the national association of insurance commissioners  
16 quarterly listing of alien insurers as maintained by the  
17 national association of insurance commissioners international  
18 insurers department.  
19     c. Evidence that the nonadmitted insurer is in good standing  
20 with its domiciliary regulator.  
21     2. The commissioner may waive the requirements of this  
22 section or set specific requirements on a case-by-case  
23 basis upon an affirmative finding of acceptability by  
24 the commissioner that the placement of insurance with the  
25 nonadmitted insurer is necessary and will not be detrimental  
26 to the public and to policyholders. In determining whether  
27 business may be placed with a nonadmitted insurer, the  
28 commissioner shall consider all of the following:  
29     a. The interests of the public and policyholders.  
30     b. The length of time the insurer has been licensed to  
31 do insurance business in its domiciliary jurisdiction and  
32 elsewhere.  
33     c. The unavailability of particular coverages from other  
34 admitted insurers or eligible surplus lines insurers in this  
35 state.



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1     *d.* The size of the nonadmitted insurer as measured by  
2 the insurer's assets, capital and surplus, reserves, premium  
3 writings, insurance in force, or other appropriate criteria.  
4     *e.* The kinds of business the nonadmitted insurer writes, the  
5 insurer's net exposure, and the extent to which the insurer's  
6 business is diversified among several lines of insurance and  
7 geographic locations.

8     *f.* The past and projected trend in the size of the  
9 nonadmitted insurer's capital and surplus considering such  
10 factors as premium growth, operating history, loss and expense  
11 ratios, or other appropriate criteria.

12     3. Eligible surplus lines insurers shall not be required to  
13 file or seek approval of their forms and rates.

14     Sec. 5. NEW SECTION. 515I.5 Duties of surplus lines  
15 insurance producers.

16     1. A surplus lines insurance producer shall not issue  
17 or deliver any evidence of insurance or purport to insure  
18 or represent that insurance will be or has been written by  
19 an eligible surplus lines insurer, unless the producer has  
20 authority from the insurer to bind the risk to be insured, or  
21 has received information from the insurer in the regular course  
22 of business that the coverage has been granted.

23     2. Upon placement of surplus lines insurance, the surplus  
24 lines insurance producer shall promptly deliver to the insured  
25 the policy or contract, or if the policy or contract is not  
26 then available, a certificate cover note, binder, or other  
27 evidence of insurance. The certificate cover note, binder,  
28 or other evidence of insurance shall contain information as  
29 specified by the commissioner by rule.

30     3. As soon as is reasonably possible after the placement  
31 of the insurance, the surplus lines insurance producer shall  
32 deliver a copy of the policy or contract or, if not available,  
33 a certificate of insurance to the insured to replace any  
34 evidence of insurance previously issued. Each policy or  
35 contract or certificate of insurance shall contain or have



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1 attached a complete record of all policy or contract insuring  
2 agreements, conditions, exclusions, clauses, endorsements, or  
3 any other material facts that would regularly be included in  
4 the policy or contract.

5 4. If, after delivery of any evidence of insurance, there  
6 is any change in the identity of the eligible surplus lines  
7 insurer, or the proportion of the risk assumed by such insurer,  
8 or any other material change in coverage as stated in the  
9 original evidence of insurance, or in any other material change  
10 as to the insurance coverage so evidenced, the surplus lines  
11 insurance producer shall promptly issue and deliver to the  
12 insured an appropriate substitute for, or endorsement of the  
13 original document, accurately showing the current status of  
14 the coverage and the surplus lines insurer responsible for the  
15 coverage.

16 5. Each surplus lines insurance producer shall keep a  
17 full and true record of each surplus lines insurance policy  
18 or contract placed by an eligible surplus lines insurer and  
19 issued or delivered by that person which covers risks wholly  
20 or partly located or to be performed in this state. These  
21 records and any other records deemed reasonably necessary by  
22 the commissioner shall be made available to the commissioner  
23 for examination upon request. Records shall be maintained for  
24 a period of not less than five years following termination of  
25 the surplus lines insurance policy or contract.

26 6. A surplus lines insurance producer shall file a report  
27 and remit all premium taxes due to this state for all surplus  
28 lines insurance placed by an eligible surplus lines insurer and  
29 issued or delivered by that person during the reporting period  
30 established by the commissioner. The specific requirements  
31 for the timing of and content of the report and the manner of  
32 filing shall be specified by the commissioner by rule.

33 Sec. 6. NEW SECTION. 515I.6 Actions against eligible  
34 surplus lines insurers.

35 An eligible surplus lines insurer may be sued upon a cause of

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1 action arising in this state under a surplus lines insurance  
2 policy or contract placed by the insurer or upon evidence of  
3 insurance placed by the insurer and issued or delivered in  
4 this state by a surplus lines insurance producer. A policy  
5 or contract issued by an eligible surplus lines insurer shall  
6 contain a provision stating the substance of this section and  
7 designating the person upon whom service of process can be made  
8 on behalf of the insurer.

9 Sec. 7. NEW SECTION. 515I.7 Effect of payment to surplus  
10 lines insurance producer.

11 A payment of premium to a surplus lines insurance producer  
12 acting for a person other than the producer in procuring,  
13 continuing, or renewing any policy or contract of surplus lines  
14 insurance procured under this chapter shall be deemed to be  
15 payment to the eligible surplus lines insurer, notwithstanding  
16 any other conditions or stipulations that are inserted in the  
17 policy or contract of insurance.

18 Sec. 8. NEW SECTION. 515I.8 Referrals to surplus lines  
19 insurance producers.

20 A surplus lines insurance producer may accept referrals  
21 to place surplus lines insurance from any other licensed  
22 insurance producer and the surplus lines insurance producer may  
23 compensate the referring insurance producer for the referral.

24 Sec. 9. NEW SECTION. 515I.9 Exempt commercial purchasers.

25 A surplus lines insurance producer seeking to procure or  
26 place surplus lines insurance in this state for an exempt  
27 commercial purchaser is not required to make a diligent search  
28 to determine whether the full amount or type of insurance  
29 sought by such exempt commercial purchaser can be obtained from  
30 an admitted insurer if both of the following requirements are  
31 met:

32 1. The surplus lines insurance producer has disclosed  
33 to the exempt commercial purchaser that such insurance may  
34 be available from an admitted insurer that may provide the  
35 purchaser with greater protection and with more regulatory

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1 oversight.

2 2. The exempt commercial purchaser has subsequently  
3 requested in writing that the surplus lines insurance producer  
4 place such insurance with an eligible surplus lines insurer.

5 Sec. 10. NEW SECTION. 515I.10 **Independently procured**  
6 **surplus lines insurance — premium tax — penalty.**

7 1. When this state is the home state of the insured, a  
8 person who directly procures, continues, or renews a surplus  
9 lines insurance policy or contract independently and without  
10 using a surplus lines insurance producer on properties,  
11 risks, or exposures located or to be performed in whole or in  
12 part in this state shall file a written report regarding the  
13 transaction with the commissioner, in a manner and method as  
14 directed by the commissioner by rule.

15 2. When this state is the home state of the insured,  
16 each person who has independently procured a surplus lines  
17 insurance policy or contract shall pay a premium tax at a  
18 rate appropriate to the amount of premium tax equal to the  
19 applicable percent, as provided in section 432.1. The tax  
20 shall be remitted via a method and schedule and in a manner as  
21 directed by the commissioner by rule.

22 3. The commissioner may assess a penalty of one percent of  
23 the delinquent amount of taxes owed per month as specified in  
24 section 507A.9.

25 Sec. 11. NEW SECTION. 515I.11 **Violations and penalties.**

26 1. The commissioner may declare a surplus lines insurer  
27 ineligible to place surplus lines insurance in the state if at  
28 any time the commissioner has reason to believe that a surplus  
29 lines insurer meets any of the following conditions:

30 a. Is in unsound financial condition or has acted in an  
31 untrustworthy manner.

32 b. No longer meets the standards set forth in this chapter.

33 c. Has willfully violated the laws of this state.

34 d. Does not conduct its claims settlement practices in a  
35 fair and reasonable manner.

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1     *e.* Has committed an unfair or deceptive insurance trade  
2 practice under chapter 507B.  
3     2. The commissioner may suspend, revoke, or refuse to renew  
4 the license of a surplus lines insurance producer or impose any  
5 sanction or penalty allowed under chapter 507B after notice and  
6 hearing for one or more of the following grounds:  
7     *a.* Removal of the resident surplus lines insurance  
8 producer's principal place of business from this state without  
9 notice to the commissioner.  
10    *b.* Removal of the resident surplus lines insurance  
11 producer's office accounts and records from this state during  
12 the period for which the accounts and records are required to  
13 be maintained.  
14    *c.* Closure of the surplus lines insurance producer's  
15 office for a period of more than thirty business days, unless  
16 permission is granted by the commissioner.  
17    *d.* Failure to file required reports with the commissioner  
18 or the commissioner's designee.  
19    *e.* Failure to remit surplus lines insurance premium taxes to  
20 this state as directed by the commissioner.  
21    *f.* Violating any provision of this chapter.  
22    *g.* For any cause for which an insurance producer license  
23 could be denied, revoked, or suspended, or renewal refused or a  
24 civil penalty imposed under chapter 522B.  
25    3. The commissioner may initiate an administrative  
26 proceeding against a surplus lines insurance producer for the  
27 collection of unpaid premium taxes. The commissioner may  
28 assess a penalty of one percent of the delinquent amount of  
29 taxes owed per month as specified in section 507A.9 and any  
30 other penalties allowed by law.  
31    4. A person that represents or aids a nonadmitted insurer  
32 in violation of this chapter shall be subject to criminal  
33 penalties as set forth in section 507A.10.  
34    Sec. 12. NEW SECTION. 515I.12 Cease and desist orders —  
35 civil and criminal penalties.

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1 1. Upon a determination by the commissioner, after a  
2 hearing conducted pursuant to chapter 17A, that a surplus lines  
3 insurance producer, an eligible surplus lines insurer, or a  
4 nonadmitted insurer has violated a provision of this chapter,  
5 the commissioner shall reduce the findings of the hearing to  
6 writing and deliver a copy of the findings to the producer  
7 or insurer. The commissioner may issue an order requiring  
8 the producer or insurer to cease and desist from engaging in  
9 the conduct resulting in the violation and may assess a civil  
10 penalty of not more than fifty thousand dollars against the  
11 producer or insurer.

12 2. a. Upon a determination by the commissioner that a  
13 surplus lines insurance producer, an eligible surplus lines  
14 insurer, or a nonadmitted insurer has engaged, is engaging,  
15 or is about to engage in any act or practice constituting a  
16 violation of this chapter or a rule adopted or order issued  
17 under this chapter, the commissioner may issue a summary order,  
18 including a brief statement of findings of fact, conclusions  
19 of law, and policy reasons for the decision, and directing the  
20 producer or insurer to cease and desist from engaging in the  
21 act or practice or to take other affirmative action as is in  
22 the judgment of the commissioner necessary to comply with the  
23 requirements of this chapter.

24 b. A surplus lines insurance producer, an eligible surplus  
25 lines insurer, or a nonadmitted insurer to whom a summary order  
26 has been issued under this subsection may contest the order by  
27 filing a request for a contested case proceeding and hearing as  
28 provided in chapter 17A and in accordance with rules adopted by  
29 the commissioner. However, the producer or insurer shall have  
30 at least thirty days from the date that the order is issued in  
31 order to file the request. Section 17A.18A is inapplicable to  
32 a summary order issued under this subsection. If a hearing  
33 is not timely requested, the summary order becomes final by  
34 operation of law. The order shall remain effective from the  
35 date of issuance until the date the order becomes final by

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1 operation of law or is overturned by a presiding officer or  
2 court following a request for hearing.

3     *c.* A surplus lines insurance producer, an eligible surplus  
4 lines insurer, or a nonadmitted insurer violating a summary  
5 order issued under this subsection shall be deemed in contempt  
6 of that order. The commissioner may petition the district  
7 court to enforce the order as certified by the commissioner.  
8 The district court shall find the producer or insurer in  
9 contempt of the order if the court finds after hearing that  
10 the producer or insurer is not in compliance with the order.  
11 The court may assess a civil penalty against the producer or  
12 insurer and may issue further orders as it deems appropriate.

13     3. A person acting as a surplus lines insurance producer,  
14 an eligible surplus lines insurer, or nonadmitted insurer who  
15 willfully violates any provision of this chapter, or any rule  
16 adopted or order issued under this chapter, is guilty of a  
17 class "D" felony.

18     4. A person acting as a surplus lines insurance producer,  
19 an eligible surplus lines insurer, or nonadmitted insurer who  
20 willfully violates any provision of this chapter, or any rule  
21 adopted or order issued under this chapter, when such violation  
22 results in a loss of more than ten thousand dollars, is guilty  
23 of a class "C" felony.

24     5. The commissioner may refer such evidence as is available  
25 concerning violations of this chapter or of any rule adopted  
26 or order issued under this chapter, or of the failure of a  
27 person to comply with the licensing requirements of chapter  
28 522B, to the attorney general or the proper county attorney who  
29 may, with or without such reference, institute the appropriate  
30 criminal proceedings under this chapter.

31     6. This chapter does not limit the power of the state to  
32 punish any person for any conduct that constitutes a crime  
33 under any other statute.

34     Sec. 13. NEW SECTION. 515I.13 Insurance policy or contract  
35 remains valid.

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1 A policy or contract of insurance issued or delivered by an  
2 eligible surplus lines insurer or a nonadmitted insurer which  
3 is otherwise valid and contains a condition or provision not  
4 in compliance with the requirements of this chapter is not  
5 thereby rendered invalid but shall be construed and applied in  
6 accordance with the conditions and provisions which would have  
7 applied had the policy or contract been issued or delivered in  
8 full compliance with this chapter.

9 Sec. 14. NEW SECTION. 515I.14 **Severability.**

10 If any provision of this chapter, or the application of the  
11 provision of this chapter to any person or circumstance, is  
12 held invalid, the remainder of the chapter and the application  
13 of the provision to persons or circumstances other than those  
14 as to which it is held invalid, shall not be affected by that  
15 holding.

16 Sec. 15. NEW SECTION. 515I.15 **Rulemaking authority.**

17 The commissioner shall adopt rules pursuant to chapter 17A  
18 to implement the purposes of this chapter.

19 DIVISION II

20 COORDINATING PROVISIONS

21 Sec. 16. Section 507A.4, subsection 1, Code Supplement  
22 2011, is amended to read as follows:

23 1. The lawful transaction of surplus lines insurance as  
24 permitted by ~~sections 515.120 through 515.122~~ chapter 515I.

25 Sec. 17. Section 515E.9, Code 2011, is amended to read as  
26 follows:

27 **515E.9 Purchasing group restrictions.**

28 A purchasing group shall not purchase insurance from an  
29 insurer not admitted in this state unless the purchase is  
30 effected through a duly licensed ~~agent or broker~~ insurance  
31 producer acting pursuant to ~~sections 515.120 through 515.122~~  
32 chapter 515I.

33 Sec. 18. Section 522B.6, subsection 2, paragraph g, Code  
34 2011, is amended to read as follows:

35 g. Excess and surplus lines insurance provided by certain

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1 nonadmitted insurers pursuant to ~~section 515.120~~ chapter 515I.

2 Sec. 19. REPEAL. Sections 515.120 through 515.122, Code and  
3 Code Supplement 2011, are repealed.

4 Sec. 20. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
5 of immediate importance, takes effect upon enactment.

6 EXPLANATION

7 This bill establishes new regulations to permit increased  
8 access to surplus lines insurance in the state, and contains  
9 penalties, coordinating provisions, repeals, and effective date  
10 provisions.

11 The bill creates new Code chapter 515I which contains  
12 regulations that permit the sale of surplus lines insurance  
13 in the state by insurers who are not licensed to do insurance  
14 business in the state. Such insurers shall be listed as  
15 eligible surplus lines insurers if they meet the requirements  
16 of the Code chapter and are approved to sell such insurance by  
17 the commissioner of insurance.

18 Surplus lines insurance producers that are licensed pursuant  
19 to Code chapter 522B to sell, solicit, or negotiate surplus  
20 lines insurance are also subject to new regulations and must  
21 file reports and remit premium taxes to the state for all  
22 surplus lines insurance sold or delivered by the producer, as  
23 required by the commissioner by rule. A payment of premium to  
24 a producer is deemed to be payment to the insurer.

25 Surplus lines insurance producers may sell insurance issued  
26 by an insurer that is not admitted to do business in this  
27 state if the insurer is an eligible surplus lines insurer, the  
28 insurer is authorized to write the type of insurance being sold  
29 in its domiciliary jurisdiction, and a diligent search by the  
30 producer indicates that the type of insurance being sold cannot  
31 be obtained from an insurer admitted to do insurance business  
32 in this state. Surplus lines insurance producers may sell  
33 commercial surplus lines insurance, without determining whether  
34 the coverage is available from an insurer admitted to do  
35 business in the state, to certain exempt commercial purchasers

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1 that employ qualified risk managers to negotiate the coverage  
2 and meet certain financial and size parameters.

3 When this state is the home state of the insured, a person  
4 who procures surplus lines insurance independently without  
5 using the services of a surplus lines insurance producer is  
6 required to file a written report about the transaction and  
7 pay the appropriate premium taxes that are due in the manner  
8 that is required by the commissioner by rule. Delinquent taxes  
9 shall be increased by a penalty of 1 percent per month of the  
10 delinquent amount.

11 The commissioner may declare a nonadmitted insurer  
12 ineligible to place surplus lines insurance in the state if  
13 the commissioner believes that the insurer is in an unsound  
14 financial condition or has acted in an untrustworthy manner;  
15 no longer meets the requirements of Code chapter 515I; has  
16 willfully violated Iowa law; does not conduct its claims  
17 settlement practices in a fair and reasonable manner; or has  
18 committed an unfair or deceptive trade practice under Code  
19 chapter 507B.

20 The commissioner may also suspend, revoke, or refuse to  
21 renew the license of a surplus lines insurance producer or  
22 impose any penalty under Code chapter 507B for specified  
23 reasons. The commissioner may initiate an administrative  
24 proceeding against a surplus lines insurance producer for  
25 the collection of unpaid premium taxes and assess a penalty  
26 of 1 percent per month of the delinquent amount. A person  
27 who represents or aids a nonadmitted insurer in violation of  
28 the new Code chapter is subject to criminal penalties. Upon  
29 a determination by the commissioner that a surplus lines  
30 producer, an eligible surplus lines insurance insurer, or  
31 a nonadmitted insurer is violating or about to violate the  
32 provisions of Code chapter 515I, the commissioner may issue a  
33 summary order directing the producer or insurer to cease and  
34 desist, and may impose civil penalties.

35 Willful violation of the provisions of the Code chapter by

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1 a surplus lines insurance producer, an eligible surplus lines  
2 insurer, or a nonadmitted insurer is punishable as a class "D"  
3 felony. A class "D" felony is punishable by confinement for  
4 no more than five years and a fine of at least \$750 but not  
5 more than \$7,500. Such a willful violation that results in a  
6 loss of more than \$10,000 is punishable as a class "C" felony.  
7 A class "C" felony is punishable by confinement for no more  
8 than 10 years and a fine of at least \$1,000 but not more than  
9 \$10,000.

10 A policy or contract issued by an eligible surplus lines  
11 insurer or a nonadmitted insurer which is otherwise valid  
12 and contains a condition or provision not in compliance with  
13 the requirements of Code chapter 515I shall be construed in  
14 accordance with the conditions and provisions which would have  
15 applied if the policy or contract had been issued or delivered  
16 in compliance with the Code chapter. Also, if a provision of  
17 the chapter is held invalid as to a person or circumstance, the  
18 rest of the Code chapter shall be valid as to other persons or  
19 circumstances.

20 The commissioner shall adopt rules pursuant to Code chapter  
21 17A to implement the purposes of the new Code chapter.

22 The bill repeals several provisions currently contained in  
23 Code chapter 515 which relate to the sale of surplus lines  
24 insurance in the state. Code sections 507A.4(1) and 515E.9 are  
25 amended to reflect this repeal and the enactment of new Code  
26 chapter 515I.

27 The bill is effective upon enactment.



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**Senate File 2062 - Introduced**

SENATE FILE 2062  
BY RAGAN

**A BILL FOR**

1 An Act relating to requirements for the use of headlights, and  
2 providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 321.384, Code 2011, is amended to read  
2 as follows:

3 **321.384 When lighted lamps required.**

4 1. ~~Every~~ A motor vehicle ~~upon~~ operated on a highway within  
5 ~~the state, at any time from~~ shall display lighted headlamps  
6 as provided in section 321.415 during the following times,  
7 subject to exceptions under this chapter with respect to parked  
8 vehicles:

9 a. From sunset to sunrise, and at such other times when  
10 conditions such as fog, snow, sleet, or rain provide.

11 b. Whenever atmospheric conditions require the use of  
12 windshield wipers.

13 c. During any period of rain, drizzle, sleet, hail, snow,  
14 blowing snow, freezing rain, or ground-level fog.

15 d. Whenever, due to insufficient lighting to render clearly  
16 discernible or unfavorable atmospheric conditions, persons  
17 and vehicles on the highway are not clearly discernible at a  
18 distance of five hundred one thousand feet ahead, shall display  
19 lighted headlamps as provided in section 321.415, subject to  
20 exceptions with respect to parked vehicles as hereinafter  
21 stated.

22 2. ~~Whenever~~ A requirement ~~is hereinafter declared as to in~~  
23 this chapter regarding the distance from which certain lamps  
24 and devices shall render objects visible or within which such  
25 lamps or devices shall be visible, ~~said provisions~~ shall apply  
26 during the times stated in subsection 1 ~~of this section~~ upon  
27 a straight level unlighted highway under normal atmospheric  
28 conditions unless a different time or condition is expressly  
29 stated.

30 Sec. 2. Section 321.482A, unnumbered paragraph 1, Code  
31 2011, is amended to read as follows:

32 Notwithstanding section 321.482, a person who is convicted  
33 of operating a motor vehicle in violation of section 321.178,  
34 subsection 2, paragraph "a", subparagraph (2), section  
35 321.180B, subsection 6, section 321.194, subsection 1,

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1 paragraph "c", section 321.256, section 321.257, section  
2 321.275, subsection 4, section 321.276, 321.297, 321.298,  
3 321.299, 321.302, 321.303, 321.304, 321.305, 321.306, 321.307,  
4 321.308, section 321.309, subsection 2, or section 321.311,  
5 321.319, 321.320, 321.321, 321.322, 321.323, 321.323A, 321.324,  
6 321.324A, 321.327, 321.329, ~~or~~ 321.333, or 321.384 causing  
7 serious injury to or the death of another person may be subject  
8 to the following penalties in addition to the penalty provided  
9 for a scheduled violation in section 805.8A or any other  
10 penalty provided by law:

11 EXPLANATION

12 This bill amends Code section 321.384 to require the  
13 operator of a motor vehicle to display lighted headlamps from  
14 sunset to sunrise; whenever atmospheric conditions require  
15 the use of windshield wipers; during any period of rain,  
16 drizzle, sleet, hail, snow, blowing snow, freezing rain, or  
17 ground-level fog; or whenever, due to insufficient lighting or  
18 unfavorable atmospheric conditions, persons and vehicles on  
19 the highway are not clearly discernible at a distance of 1,000  
20 feet. Currently, the use of headlamps is required from sunset  
21 to sunrise and at all other times when conditions such as fog,  
22 snow, sleet, or rain provide insufficient lighting to clearly  
23 see 500 feet ahead.

24 The penalty that currently applies to a violation of  
25 requirements for headlight use applies to the new requirements  
26 under the bill. A violation is a simple misdemeanor,  
27 punishable by a scheduled fine of \$30. The bill adds a  
28 violation of Code section 321.384 to the list of traffic  
29 offenses for which additional penalties may be imposed for a  
30 violation causing serious injury to or death of another person.  
31 If the violation causes a serious personal injury, a court  
32 could impose an additional fine of \$500 or suspend the person's  
33 driver's license for not more than 90 days, or both. If the  
34 violation causes a death, a court could impose an additional  
35 fine of \$1,000 or suspend the person's driver's license for not

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1 more than 180 days, or both.

2 The following Code sections contain provisions which are  
3 linked to the times when headlamps are required under Code  
4 section 321.384 and are therefore affected indirectly by the  
5 bill:

6 Code section 321.235A, which requires the use of a headlight  
7 and a rear reflector on an electric personal assistive mobility  
8 device.

9 Code section 321.392, which requires the use of certain  
10 lighting devices and reflectors on motor trucks.

11 Code section 321.394, which requires a red light to be  
12 displayed on projecting loads.

13 Code section 321.395, which requires lighting on vehicles  
14 stopped on an unlighted roadway or shoulder.

15 Code sections 321.397, 321.398, and 321.418, which describe  
16 lighting requirements for bicycles, animal drawn vehicles, and  
17 slow-moving vehicles.

18 Code section 321.405, which requires self-illumination of  
19 mechanical signal devices.

20 Code sections 321.415 and 321.419, which provide  
21 specifications for headlamps.



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**Senate File 2063 - Introduced**

SENATE FILE 2063  
BY KETTERING

**A BILL FOR**

1 An Act relating to the operation of certain all-terrain  
2 vehicles on streets and highways upon registration with the  
3 department of transportation, providing a registration fee,  
4 and providing penalties.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 321.1, subsections 4 and 32, Code  
2 Supplement 2011, are amended to read as follows:  
3 4. "*All-terrain vehicle*" means a motor vehicle designed  
4 to travel on three or more wheels and designed primarily for  
5 off-road recreational use. "*All-terrain vehicle*" includes  
6 off-road utility vehicles ~~as defined in section 321.1, but~~  
7 does not include farm tractors or equipment, construction  
8 equipment, forestry vehicles, or lawn and grounds maintenance  
9 vehicles.  
10 32. "*Implement of husbandry*" means a vehicle or special  
11 mobile equipment manufactured, designed, or reconstructed  
12 for agricultural purposes and, except for incidental uses,  
13 exclusively used in the conduct of agricultural operations.  
14 "*Implements of husbandry*" includes all-terrain vehicles operated  
15 in compliance with section 321.234A, subsection 1, paragraph  
16 "*a*", but not registered for operation upon a highway pursuant  
17 to section 321.118; fence-line feeders; and vehicles used  
18 exclusively for the application of organic or inorganic plant  
19 food materials, organic agricultural limestone, or agricultural  
20 chemicals. To be considered an implement of husbandry, a  
21 self-propelled implement of husbandry must be operated at  
22 speeds of thirty-five miles per hour or less.  
23 a. "Reconstructed", as used in this subsection, means  
24 materially altered from the original construction by the  
25 removal, addition, or substitution of essential parts, new or  
26 used.  
27 b. A vehicle covered under this subsection, if it otherwise  
28 qualifies, may be operated as special mobile equipment  
29 and under such circumstances this subsection shall not be  
30 applicable to such vehicle, and such vehicle shall not be  
31 required to comply with sections 321.384 through 321.423, when  
32 such vehicle is moved during daylight hours; however, the  
33 provisions of section 321.383 shall remain applicable to such  
34 vehicle.  
35 Sec. 2. Section 321.1, Code Supplement 2011, is amended by

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1 adding the following new subsection:

2 NEW SUBSECTION. 47A. "*Off-road utility vehicle*" means as  
3 defined in section 321I.1, subsection 16, paragraph "a".

4 Sec. 3. Section 321.20, subsection 1, paragraph e, Code  
5 2011, is amended to read as follows:

6 e. The amount of the fee for new registration to be paid  
7 under section 321.105A, the amount of tax to be paid under  
8 section 423.26, subsection 1, ~~or~~ the amount of tax to be paid  
9 under section 423.26A, or the amount of sales tax paid under  
10 section 423.2.

11 Sec. 4. Section 321.105A, subsection 2, paragraph c,  
12 Code Supplement 2011, is amended by adding the following new  
13 subparagraph:

14 NEW SUBPARAGRAPH. (31) All-terrain vehicles, if the owner  
15 paid the sales tax required under section 423.2 at the time the  
16 vehicle was purchased.

17 Sec. 5. NEW SECTION. 321.118 **All-terrain vehicles.**

18 An all-terrain vehicle with four or more wheels and a  
19 combustion engine having a piston or rotor displacement of two  
20 hundred centimeters or more may be titled and registered under  
21 this chapter for operation on streets or highways for an annual  
22 fee of twenty dollars.

23 Sec. 6. Section 321.166, subsection 1, paragraph a, Code  
24 2011, is amended to read as follows:

25 a. Registration plates shall be of metal and of a size not  
26 to exceed six inches by twelve inches, except that the size  
27 of plates issued for use on all-terrain vehicles, motorized  
28 bicycles, motorcycles, motorcycle trailers, and trailers  
29 with an empty weight of two thousand pounds or less shall be  
30 established by the department.

31 Sec. 7. Section 321.166, subsection 4, Code 2011, is amended  
32 to read as follows:

33 4. The registration plate number, except on all-terrain  
34 vehicles, motorized bicycles, motorcycles, motorcycle trailers,  
35 and trailers with an empty weight of two thousand pounds

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1 or less, shall be of sufficient size to be readable from a  
2 distance of one hundred feet during daylight.

3 Sec. 8. Section 321.234A, Code 2011, is amended by adding  
4 the following new subsection:

5 NEW SUBSECTION. 5. The provisions of this section do  
6 not apply to an all-terrain vehicle operated on a highway in  
7 accordance with section 321.234B.

8 Sec. 9. NEW SECTION. **321.234B Registered all-terrain**  
9 **vehicles — penalty.**

10 1. An all-terrain vehicle which is registered under this  
11 chapter may be operated by a person with a valid driver's  
12 license on a highway other than an interstate highway.

13 2. The motor vehicle laws apply to the operation of  
14 all-terrain vehicles registered for operation on highways,  
15 except for those provisions relating to required equipment  
16 which by their nature can have no practical application.

17 3. An all-terrain vehicle registered under this chapter  
18 and operated on a highway shall be equipped with headlights,  
19 taillights, turn signals, a rearview mirror, and safety belts.

20 4. A person convicted of a violation of a provision of  
21 this section is guilty of a simple misdemeanor punishable as a  
22 scheduled violation under section 805.8A, subsection 3.

23 Sec. 10. Section 321I.1, subsection 16, paragraph b, Code  
24 2011, is amended to read as follows:

25 *b.* An owner of an off-road utility vehicle may register  
26 or title an off-road utility vehicle in order to legally  
27 operate the off-road vehicle on public ice, a designated  
28 riding area, or a designated riding trail. The operator of an  
29 off-road utility vehicle is subject to provisions governing  
30 the operation of all-terrain vehicles in section 321.234A and  
31 this chapter, but is exempt from the safety instruction and  
32 certification program requirements of sections 321I.25 and  
33 321I.26. An operator of an off-road utility vehicle shall not  
34 operate the vehicle on a designated riding area or designated  
35 riding trail unless the department has posted signage

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1 indicating the riding area or trail is open to the operation  
2 of off-road utility vehicles. Off-road utility vehicles are  
3 exempt from the dealer registration and titling requirements  
4 of this chapter. A motorized vehicle that was previously  
5 titled or is currently titled under chapter 321, except section  
6 321.118, shall not be registered or operated as an off-road  
7 utility vehicle under this chapter.

8 Sec. 11. Section 321I.9, unnumbered paragraph 1, Code 2011,  
9 is amended to read as follows:

10 Registration under this chapter shall not be required for  
11 the following described all-terrain vehicles:

12 Sec. 12. Section 321I.9, Code 2011, is amended by adding the  
13 following new subsection:

14 NEW SUBSECTION. 4. All-terrain vehicles registered under  
15 chapter 321 and used in accordance with section 321.234B.

16 Sec. 13. Section 321I.10, subsections 1, 2, and 3, Code  
17 2011, are amended to read as follows:

18 1. A person shall not operate an all-terrain vehicle ~~or~~  
19 ~~off-road utility vehicle~~ upon roadways or highways except as  
20 provided in section 321.234A, 321.234B, and this section.

21 2. ~~A registered~~ An all-terrain vehicle ~~or off-road utility~~  
22 ~~vehicle registered under this chapter~~ may be operated on  
23 the roadways of that portion of county highways designated  
24 by the county board of supervisors for such use during a  
25 specified period. The county board of supervisors shall  
26 evaluate the traffic conditions on all county highways and  
27 designate roadways on which all-terrain vehicles ~~or off-road~~  
28 ~~utility vehicles~~ may be operated for the specified period  
29 without unduly interfering with or constituting an undue  
30 hazard to conventional motor vehicle traffic. In designating  
31 such roadways, the board may authorize all-terrain vehicles  
32 ~~and off-road utility vehicles~~ to stop at service stations or  
33 convenience stores along a designated roadway.

34 3. Cities may designate streets under the jurisdiction of  
35 cities within their respective corporate limits which may be

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1 used for the operation of ~~registered~~ all-terrain vehicles ~~or~~  
2 ~~registered off-road utility vehicles~~ under this chapter. In  
3 designating such streets, the city may authorize all-terrain  
4 vehicles ~~and off-road utility vehicles~~ to stop at service  
5 stations or convenience stores along a designated street.

6 Sec. 14. Section 321I.31, subsection 1, Code 2011, is  
7 amended to read as follows:

8 1. The owner of an all-terrain vehicle acquired on or  
9 after January 1, 2000, other than an all-terrain vehicle used  
10 exclusively as a farm implement, ~~or~~ a motorcycle previously  
11 issued a title pursuant to chapter 321, or an all-terrain  
12 vehicle titled and registered in accordance with section  
13 321.118, shall apply to the county recorder of the county in  
14 which the owner resides for a certificate of title for the  
15 all-terrain vehicle. The owner of an all-terrain vehicle  
16 used exclusively as a farm implement may obtain a certificate  
17 of title. A person who owns an all-terrain vehicle that is  
18 not required to have a certificate of title may apply for and  
19 receive a certificate of title for the all-terrain vehicle  
20 and, subsequently, the all-terrain vehicle shall be subject to  
21 the requirements of this chapter as if the all-terrain vehicle  
22 were required to be titled. All all-terrain vehicles that  
23 are titled under this chapter shall be registered under this  
24 chapter.

25 Sec. 15. Section 805.8A, subsection 3, Code Supplement  
26 2011, is amended by adding the following new paragraph:

27 NEW PARAGRAPH. *Ob.* Section 321.234B..... \$ 50.

28 EXPLANATION

29 This bill provides for the registration of certain  
30 all-terrain vehicles for operation on noninterstate highways.

31 Under the bill, all-terrain vehicles with four or more  
32 wheels and a combustion engine having a piston or rotor  
33 displacement of 200 centimeters or more may be titled and  
34 registered with the department of transportation for operation  
35 on streets or highways. The annual registration fee is \$20.

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1 The provision applies to off-road utility vehicles, which for  
2 purposes of motor vehicle regulation, are included in the  
3 definition of "all-terrain vehicle". Because all-terrain  
4 vehicles are currently subject to sales tax, the bill provides  
5 that the vehicles are exempt from the fee for new registration  
6 imposed on vehicles subject to registration, so long as the  
7 owner has paid the required sales tax at the time of purchase.

8 The bill states that a person must have a valid driver's  
9 license to operate a registered all-terrain vehicle on a  
10 highway and that motor vehicle laws apply to the operation of  
11 registered all-terrain vehicles except provisions relating to  
12 required equipment which by their nature can have no practical  
13 application. The bill requires a registered all-terrain  
14 vehicle operated on a highway to be equipped with headlights,  
15 taillights, turn signals, a rearview mirror, and safety  
16 belts. A registered all-terrain vehicle may not be driven on  
17 an interstate. A violation of these provisions is a simple  
18 misdemeanor, punishable by a scheduled fine of \$50.

19 Pursuant to Code section 321.234A, all-terrain vehicles are  
20 currently permitted on highways for limited purposes, including  
21 agricultural use, subject to specific restrictions. Those  
22 existing provisions are not amended in the bill and continue to  
23 apply to all-terrain vehicles which are not registered by the  
24 department of transportation under the bill.

25 Under current law, all-terrain vehicles operated on public  
26 land or ice or on designated riding areas or designated riding  
27 trails are required to be registered with the department  
28 of natural resources. All-terrain vehicles acquired after  
29 January 1, 2000, other than those used exclusively as farm  
30 implements, must also be titled by the department. The bill  
31 provides an exception to that titling requirement for an  
32 all-terrain vehicle titled and registered with the department  
33 of transportation. However, under the bill, an all-terrain  
34 vehicle which is titled and registered for highway operation  
35 must still be registered separately with the department of

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1 natural resources for operation on public lands or ice or on  
2 designated riding areas and designated riding trails.  
3 Currently, local authorities are authorized to designate  
4 streets and highways under their jurisdiction for the operation  
5 of all-terrain vehicles registered with the department of  
6 natural resources. That authority is retained under the bill.



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**Senate File 2064 - Introduced**

SENATE FILE 2064  
BY DANIELSON

**A BILL FOR**

1 An Act concerning retirement incentive programs for school  
2 district employees.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5815SS (3) 84  
ec/sc



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1 Section 1. Section 279.46, Code 2011, is amended to read as  
2 follows:

3 **279.46 Retirement incentives — tax.**

4 The board of directors of a school district may adopt a  
5 program for payment of a monetary bonus, continuation of  
6 health or medical insurance coverage, or other incentives  
7 for encouraging its employees to retire ~~before the normal~~  
8 ~~retirement date as defined in chapter 97B.~~ The program is  
9 available only to employees who notify the board of directors  
10 prior to April 1 of the fiscal year that they intend to  
11 retire not later than the start of the next following school  
12 calendar. The age, and applicable years of service if any, at  
13 which employees shall be designated eligible for the program  
14 shall be at the discretion of the board. An employee retiring  
15 under this section may apply for a retirement allowance under  
16 chapter 97B or chapter 294. The board may include in the  
17 district management levy an amount to pay the total estimated  
18 accumulated cost to the school district of the health or  
19 medical insurance coverage, bonus, or other incentives for  
20 ~~employees within the age range of fifty-five to sixty-five~~  
21 ~~years of age~~ who retire under this section.

22 EXPLANATION

23 This bill concerns eligibility requirements for retirement  
24 incentive programs that a school district board of directors  
25 may adopt for its employees. Current law provides that any  
26 retirement incentive program shall be limited to encouraging  
27 employees to retire before their normal retirement date under  
28 the Iowa public employees' retirement system (IPERS) and that  
29 the board may include the costs of any retirement incentive  
30 program adopted in the district management levy only for those  
31 employees from age 55 to 65 who retire. The bill eliminates  
32 these specific age and service requirements relative to the  
33 retirement incentive program adopted by a school board. The  
34 bill also provides that a school board may adopt a years of  
35 service requirement for the retirement incentive program it may

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1 offer.



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**Senate File 2065 - Introduced**

SENATE FILE 2065  
BY COMMITTEE ON ECONOMIC  
GROWTH/REBUILD IOWA  
  
(SUCCESSOR TO SSB 3014)

**A BILL FOR**

1 An Act relating to employee stock ownership plans by  
2 encouraging the adoption of such plans by Iowa corporations,  
3 creating an individual income tax exemption, making an  
4 appropriation, and including retroactive applicability  
5 provisions.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5250SV (2) 84  
mm/sc

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## DIVISION I

## ESOP FORMATION ASSISTANCE

3       Section 1.   EMPLOYEE STOCK OWNERSHIP PLAN ASSISTANCE AND  
4 PROMOTION.

5 1. There is appropriated from the general fund of the state  
6 to the economic development authority for the fiscal year  
7 beginning July 1, 2012, and ending June 30, 2013, the following  
8 amount, or so much thereof as is necessary, to be used for the  
9 purposes designated:

10 For providing financial assistance, including establishment  
11 of a loan program, and technical assistance, marketing, and  
12 education to businesses interested in establishing employee  
13 stock ownership plans and for procuring the services of an  
14 independent contractor with expertise in the formation of  
15 employee stock ownership plans:

16 ..... \$ 1,000,000

17 Notwithstanding section 8.33, moneys appropriated pursuant  
18 to this section shall not revert but shall remain available to  
19 the economic development authority for the purposes designated  
20 until expended. Notwithstanding section 12C.7, subsection 2,  
21 earnings or interest on moneys appropriated pursuant to this  
22 section shall be retained by the economic development authority  
23 and used for the purposes designated until expended.

## DIVISION II

## CAPITAL GAIN DEDUCTION FOR SALE TO AN IOWA ESOP

26     Sec. 2. Section 422.7, subsection 21, Code Supplement 2011,  
27 is amended by adding the following new paragraph:

28     NEW PARAGRAPH.   e.   (1) To the extent not already excluded,  
29 the net capital gain from the sale or exchange of employer  
30 securities of an Iowa corporation to a qualified Iowa employee  
31 stock ownership plan when, upon completion of the transaction,  
32 the qualified Iowa employee stock ownership plan owns at least  
33 thirty percent of all outstanding employer securities issued  
34 by the Iowa corporation.

35       (2) For purposes of this paragraph:

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1 (a) "*Employer securities*" means the same as defined in  
2 section 409(1) of the Internal Revenue Code.

3 (b) "*Iowa corporation*" means a corporation whose commercial  
4 domicile, as defined in section 422.32, is in this state.

5 (c) "*Qualified Iowa employee stock ownership plan*" means an  
6 employee stock ownership plan, as defined in section 4975(e)(7)  
7 of the Internal Revenue Code, and trust that are established  
8 by an Iowa corporation for the benefit of the employees of the  
9 corporation.

10 Sec. 3. RETROACTIVE APPLICABILITY. This division of this  
11 Act applies retroactively to January 1, 2012, for tax years  
12 beginning on or after that date.

13 EXPLANATION

14 This bill relates to employee stock ownership plans.

15 Division I of the bill provides for an appropriation of \$1  
16 million to the economic development authority for the purpose  
17 of providing financial assistance, including the establishment  
18 of a loan program, and technical assistance, marketing, and  
19 education to businesses regarding the formation of employee  
20 stock ownership plans.

21 Division II of the bill provides for an exemption from the  
22 computation of the state individual income tax of the net  
23 capital gain from the sale or exchange of employer securities  
24 of an Iowa corporation to a qualified Iowa employee stock  
25 ownership plan if, upon completion of the sale or exchange,  
26 the qualified Iowa employee stock ownership plan owns at least  
27 30 percent of all outstanding employer securities issued  
28 by the Iowa corporation. For purposes of the exemption,  
29 "employer securities" means the same as defined in section  
30 409(1) of the Internal Revenue Code, "Iowa corporation"  
31 means a corporation whose commercial domicile is in Iowa,  
32 and "qualified Iowa employee stock ownership plan" means an  
33 employee stock ownership plan and trust that is established by  
34 an Iowa corporation for the benefit of the employees of the  
35 corporation.



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1 Division II of the bill applies retroactively to January 1,  
2 2012, for tax years beginning on or after that date.